104

S. HRG. 104—74, Pt. 2

THE BALANCED BUDGET AMENDMENT

Y 4. EC 7: B 85/13/995/PT. 2

The Balance Budget Amendment, Part...

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1995p

HEARINGS

BEFORE THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

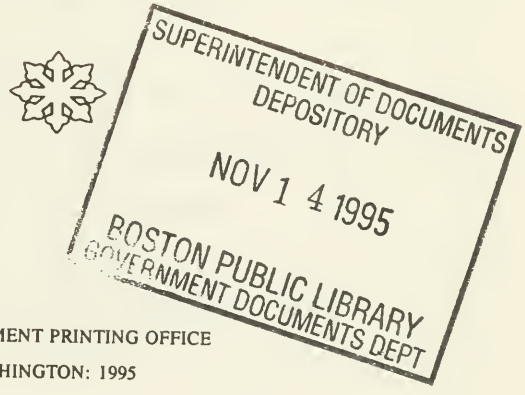
ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

PART 2

January 23, 1995

Printed for the use of the Joint Economic Committee



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THE BALANCED BUDGET AMENDMENT

Monday, January 23, 1995

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
WASHINGTON, D.C.

The Committee met, pursuant to notice, at 9:35 a.m., in Room 2226, Rayburn House Office Building, the Honorable Jim Saxton, Vice Chairman of the Committee, presiding.

Present: Representatives Saxton, Thornberry, Manzullo, Stark and Hamilton; Senators Mack, Craig and Bennett.

Also Present: Representatives Boehner and Barton.

Staff Present: Lawrence Hunter, Juanita Morgan, Colleen Healy, Roni M. Singleton, Jeff Walter, Brian Wesbury, Shelly Hymes, Missy Shorey, Michael Gaines, Lee Price and William Buechner.

OPENING STATEMENT OF REPRESENTATIVE JIM SAXTON, VICE CHAIRMAN

Representative Saxton. The hearing of the Joint Economic Committee will convene at this time and come to order.

This is the second in a series of hearings on the Balanced Budget Amendment. On Friday, we held a very successful hearing with messages from both those who support some version of a balanced budget amendment as well as from some individuals who think that it is a bad idea. Today, we will continue that conversation in the hope that we will arrive at a better understanding among ourselves as to how we should proceed.

On Friday, in addition, Congressman Stenholm released a letter to the Speaker signed by 66 Democrats declaring they would vote for a balanced budget amendment that requires a three-fifths majority to increase the deficit but with no such restraint on raising taxes. During the unveiling of this letter, Mr. Stenholm pronounced dead the tax limitation version of the Balanced Budget Amendment which all of we Republicans pledged to support in our Contract With America. My good friend from Texas,

Mr. Stenholm, proclaimed that there is no way the Barton Tax-Limitation proposal can now pass.

Over the weekend, I spoke with a number of my Republican colleagues about this partisan ploy; and I must report a significant number of them are not taking kindly to this, this kind of an attitude which we would describe nowadays as an in-your-face attitude being taken by the Minority party. What I heard most often in discussions with my colleagues is a quiet determination to remain resolute and faithful to the pledge we made in the Contract.

If we do arrive at an impasse toward the end of this week, Members may, on the other hand, wish to look for a compromise. If such an impasse arises and my colleagues do desire to seek an immediate compromise between the advocates of tax limitation and supporters of a weak amendment, I want to be ready for that eventuality.

Therefore, as soon as this hearing concludes, I will go before the Rules Committee on the House side to ask that a compromise substitute amendment be made in order on the Floor that may be able to produce a consensus in the event of such an impasse.

My compromise amendment works as follows: the three-fifths majority requirement on raising taxes is dropped and the three-fifths majority requirement on running a deficit is also dropped. In their place, a limitation on spending growth is proposed. A two-thirds majority requirement is placed on allowing the growth of total outlays in any fiscal year to exceed the growth rate of the economy.

In addition, total outlays may not exceed total receipts unless both Houses adopt a bill directed solely at authorizing a deficit, and that bill has been signed into law by the President. This proposal represents a true compromise between the two main competing approaches that may now be destined to produce an impasse.

In my judgment, my substitute amendment satisfies the spirit of the pledge we made in the Contract by putting a cap on spending and eliminating the need for tax increases. And, by removing the three-fifths rule on raising taxes, my substitute also should satisfy the principal concerns of those balanced budget amendment advocates who feel they must vote against the compromise resolution because of the three-fifths rule on tax increases.

My support for the Barton Tax-Limitation Balanced Budget Amendment is stronger today than ever. I think it is the best approach, and I do not envision my substitute being considered unless an impasse

is reached. Therefore, I will ask that the Saxton substitute be made in order as the last substitute amendment to be voted on.

For this morning's purposes, I would like to welcome the other Members of our panel: Senator Mack, Congressman Manzullo, as well as our colleagues who are here to testify.

We will hear now from our witnesses. Our first panel consists of four Members of Congress: Mark Souder from Indiana, John Mica from Florida, Toby Roth from Wisconsin, and Marty Sabo from Minnesota.

If I may, at this time, I will ask if there are other Members of the panel who wish to make an opening statement?

John Mica, would you like to be our first witness?

PANEL I

STATEMENT OF THE HONORABLE JOHN MICA, REPRESENTATIVE FROM FLORIDA

Representative Mica. Thank you, Mr. Chairman and Senator Mack and my good friend and colleague John Manzullo. It is an honor and privilege to appear before this distinguished panel.

I had the opportunity in the 103rd Congress and also the responsibility to serve as the freshman coordinator of the Balanced Budget Amendment effort. The question then was whether or not we could adopt any bill to balance the Federal budget. Because of the politics and the political games that were being played then, we failed in our effort, and that is part of history now.

Because of both the mandate and the changes resulting from last November's election, the circumstances we find ourselves in today have dramatically altered the terms of the debate. Today, the question before us is not whether we will have a balanced budget amendment to the Constitution, the question is which of the two proposals before us today will be adopted.

As we in the Congress consider the two choices before us, it is critical that we do not ignore both the message and the mandate of the people. Few issues in contemporary history have dominated the overwhelming opinion of Americans more than their desire for Congress to do two things: first, to pass a balanced budget amendment; and, second, to cut taxes and reduce the size and scope of our Federal Government.

I submit to you that no better measure exists for the near or long term to accomplish those two objectives sought by our electorate than the adoption of the Barton Amendment.

As we choose the best language and terms for enacting a balanced budget amendment, we must not make an error. We must not enact a measure that fails to accomplish our original intention and mission: first, to balance the budget; and, second, to reduce taxes and limit government spending. Only by requiring a three-fifths vote to increase taxes can we accomplish the task and ensure that the net results we intended are accomplished.

If we are going to amend this document that has served us so well for so long, we must incorporate protections that will transcend this generation. How sad it would be in the year 2002 to look back on 1995 and say, "If only they had acted responsibly." How sad it would be in the year 2002 to read through the testimony of this debate and regret that this Congress did not finish the job. How sad it would be in the year 2002 to refer to our Balanced Budget Amendment in the terms we now regard Gramm-Rudman-Hollings and the failed attempts by Presidents Bush and Clinton to bring our financial house in order.

So, hopefully, today we can learn from history. We can learn the clear message of last November. How interesting it is that the people, long before those in Washington, understood both the problem and the solution. Even those who are not schooled in finance and politics have recognized the need to adopt a strong, tough and complete measure.

I submit to you today, in my testimony, that the Barton Amendment is our best choice to meet those objectives. I submit to you we must not ignore this opportunity in the history of our great Nation to reset our financial course and ensure the fiscal responsibility for future generations.

If we adopt the Barton Amendment, I know we will have a much better chance of having Americans in the year 2002 look back on 1995 and say -- and these proceedings and say, "Those in Congress today -- in 1995 -- did the right thing."

Thank you. That concludes my testimony, and I am available for questions at the appropriate time.

[The prepared statement of Representative Mica appears in the Submissions for the Record.]

Representative Saxton. Thank you very much.

Mr. Roth.

STATEMENT OF THE HONORABLE TOBY ROTH, REPRESENTATIVE FROM WISCONSIN

Representative Roth. Thank you, Chairman Saxton and Chairman Mack, Members of the Committee. I am delighted to be here this morning.

I have been looking forward to this meeting for a good long time. In fact, I would say years. Because I remember you, Senator Mack, years ago reciting when we talked about the Balanced Budget Amendment and how we were going to do the job and do it right. And that is why I am asking your Committee to do the job right with this Balanced Budget Amendment.

You know, in Wisconsin, we have a saying, if you are going to do a job, do it right. And that is why I want to endorse Chairman Saxton's opening statement where he talked about the three-fifths provision. And as far as the tax increases is concerned, that is vital. That is an important ingredient.

Last time this issue was up for a vote we lost by 12 votes, and around the country people were upset and said things just are not getting done in Washington. And I want to venture a prediction here to say that if we pass the Balanced Budget Amendment and it is just a form -- in other words, we pass the Amendment without the three-fifths formula, I think people will be very disappointed because we will be right back into this mental mind set of spend, spend, spend. And the taxes are going to increase because, remember, it is much easier to increase taxes than to cut spending. That is why this provision is so important.

The reason we have not had a balanced budget for 25 years, since 1969, is because Congress is continuing to just spend; and we are not making appropriate cuts. I worked very hard last session, for example, to have $2 billion cut out of AID; and we did cut it out on the Floor. But what happened? The games were played in the conference committee. It was put right back in.

I am afraid that if we do not have the three-fifths formula espoused by Members of this Committee, the country and the people are going to look at the balanced budget again as game playing; and we cannot have that. We have to walk the walk and talk the talk. We said we are going to balance the budget; and, by golly, we have to come through on it. And if we do not have the courage to put the three-fifths formula into the Balanced Budget Amendment, how are we ever going to have the courage to follow through?

That is why, in my opinion, it is so important why I so strongly endorse, Senator Mack, what you are doing and Vice Chairman Saxton and the Members of this Committee.

Now, we have, at this time, mortgaged, basically, because of our huge deficit, $80,000 on a family of four here in America. Which means, basically, you have a mortgage on an $80,000 home, but you do not own the house, you do not own the lot, you own nothing but the mortgage payment you have to make.

Since the last time we promised a balanced budget -- and it was not that long ago -- our national debt has increased by $160 billion. That is an awful lot of money to pass on to our kids. Our total national debt, as you know, is now $4.8 trillion. And this is more than just numbers. This is going to affect the lives of every single man, woman and child in America.

In the 15 years we have had the Gramm-Rudman, you know as well as I – or much better – the five different statutes we passed promising the balanced budget, what has happened? Zero, zilch, nothing. And that will happen again, I fear, if we do not have the three-fifths formula. And that is why we have to fight so hard for it. If we are going to do the job, let us do it right.

And now Congress does not have to vote on the debt ceiling. That is a crime in itself. We do not have to vote on that anymore. We do have a Democratic President, but, by golly, I am for the line-item veto; and I hope we follow through on that.

You know, during the Middle Ages they had the death of the thousand knives, and you all know how that happened. They would take out a thousand little bits of skin and by the time you came to the thousandth cut, the person would be dead. And that is what the opposition is hoping for, that if we do not have the Balanced Budget Amendment that we are not going to go through the rigors, that we will not make the tough decisions, and we will go right back to the huge tax increases.

So I ask the Members of this Committee -- first of all, I want to applaud what you are doing and the tough work you are doing and the tough stands you are taking. I applaud the work you are doing, and I want you to know that I will talk to every Congressperson I can and Senator to back you in this effort. Because if we are going to have a balanced budget amendment, let us have more than a facade. Let us have a real balanced budget amendment that people can again put their trust and confidence in.

In closing, let me say that every newspaper you read talks about what is happening in government, that the people have lost their trust and confidence.

Jefferson, a person we always quote when it comes to a balanced budget amendment because he said that is one of the great failings of the constitution, had a famous quote. He said that, "our government can only work if people have trust and confidence in it."

So let us restore that trust and confidence by passing a real balanced budget amendment. This is a once-in-a-lifetime chance. If we do not do it now, we will never do it. If not us, who? If not now, when?

So I ask you, Members of the Committee, to hang strong and hang tough because not only the American people today but future generations yet unborn will be affected by the work you are doing. So I thank you very much for having me here and allowing me to testify here this morning.

[The prepared statement of Representative Roth appears in the Submissions for the Record.]

Representative Saxton. We thank you very much.

We will move over to our friend Marty Sabo at this time.

STATEMENT OF THE HONORABLE MARTIN OLAV SABO, REPRESENTATIVE FROM MINNESOTA

Representative Sabo. Thank you, Mr. Chairman and Members of the Committee. I appreciate the opportunity to be with you today to discuss the question of amending our Constitution.

The question before us is not whether we should or should not have a balanced budget. The question is whether we amend our Constitution to put that requirement in the Constitution. And I am here as an opponent of doing that for a variety of reasons.

The Constitution did not create our problems, and changing it will not solve them. The only way we come to grips with the basic fiscal problems that we face and the economic problems we face in this country is by exercising political will, not by the change of our Constitution.

I believe there are three very fundamental problems with putting a balanced budget requirement in the Constitution. My first objection concerns the manner in which this addition would change the nature of our Constitution. The second involves the change in balance of powers between the three branches of government, which I believe would result from this type of constitutional requirement. And my third objection

relates to the change in the balance of power within the legislative branch under some of the proposals.

The Balanced Budget Amendment is fundamentally different from existing constitutional provisions. One of the strengths of the Federal Constitution has always been that it has been a framework of governing, not an institution which attempts to put policy into the Constitution. Anyone who has looked at the problems a variety of states have had over the years, they constantly run into problems when attempts are made to write policy into Constitution.

Our Constitution is a very unique governing institution, very rarely amended. Its strength is really the fact that it puts the broad framework of governing before us without writing in a particular policy initiative. This Amendment, something which seeks to command the Congress and the President to do something very specific, in my judgment would either be unenforceable or it would -- its enforcement would shift unprecedented budget powers to the courts and the presidents. How it would be enforced, I do not know.

Clearly, the variations in the Federal budget throughout a year, and from year to year, are substantial. And it is hard to see and foresee how this would dramatically increase the power of the President versus the Congress, or ultimately probably the power of the courts versus the Congress and the President, in terms of changing, modifying the basic power of the purse, which is the most basic power that the Congress has.

Clearly, it would, I think, be a great law, a great amendment for lawyers. I think the amount of litigation that would result would be unending.

Several of the proposals also would result in a significant change in the internal balance of power within the legislative branch of government. This speaks to the various requirements for requiring super-majorities doing a variety of things: Whether to raise revenue -- I found it rather ironic that we would amend the Constitution to say it would require a 60 percent vote to raise the cigarette tax but maintain the power to go to war with a 50 percent vote. Something seems out of kilter when you look at those actions.

Clearly, some amendments do not have that provision, but, basically, again, they would go to 60 percent vote to raise the debt ceiling. What uncertainties that would bring for the potential financial well-being of this country, I do not know.

Again, I think one of the strengths of the House is that we do not have the 60 percent requirement to proceed and to do fundamental things, such

as exist in the Senate. But, again, our Constitution for final action itself in no case requires a super-majority.

And there are also some practical problems with having this requirement written into the Constitution. Number one, the role of the Federal Government is very different from that of a State or local government in its role of dealing with economic stabilization in this country or emergencies at home and abroad. Clearly, one of the great stabilizers in our economy has been the automatic circular impact of the Federal Government at times of economic downturns. Some relate to benefits that automatically flow to people where eligibility grows rather dramatically at the times we move into a recession.

I suppose if we had to deal with one that was not very nice to deal with in recent years, in terms of the problems with S&Ls, clearly, the fact that the Congress was able to deal with this basic guarantee of deposit insurance was something that maintained the financial stability in this country, unlike what happened in the 1930s.

But it happens with big issues like that. It also happens whenever we go through downturns in the economy -- that, clearly, the role of the Federal Government has been that of helping stabilize the economy.

Thirdly, I am not sure how this Amendment would relate to one of the other substantial uncertainties we have in the Federal budget, and that is interest in the national debt, which currently represents about 14 percent of our budget. The logical conclusion of a balanced budget amendment would be that we would move to funding all our debts on a long-term basis to have stability of interest rates. Historically, long-term rates have been higher than short-term rates and could have the impact of substantially increasing the interest costs for the Federal Government.

The politics of it during Gramm-Rudman, when we were trying to seek and to meet specific guidelines, was that the Administration would always assume moving to shorter term borrowing with lower interest rates than seemed rational to make their numbers fit the targets. And I suspect that the nature of the politics of a presidential budget would be to again use those very optimistic short-term rates and assume they will go more and more to them in funding the debt. If, in fact, that happens, what you create is a huge variable that is very difficult for us to deal with.

As a matter of fact, in our most recent budget estimates for the next several years, one of the big changes that CBO is projecting is upward costs of interest because of rising interest rates, which is the cost which is not there directly because of anything that the Congress has done.

So, for a variety of reasons, I would oppose putting this requirement in the Constitution.

In the framework of how we are dealing with it this year, I do not think we can substitute the general constitutional question, though, also from the question of how we will get there. And I have looked at the proposals of the Contract With America and how we are supposedly going to get to a balanced budget by the year 2002, and I have looked at the suggestions coming from the Senate Budget Committee of rather modest increases but some increases in defense, substantial tax cuts and its requirements on the balance of the budget.

What would be required would be over $800 billion of program cuts over the next five years, substantially more over seven years -- that is the five-year program to get to where we need to go by the year 2000. When you add in the interest costs, it would be over $900 billion.

In terms of policy cuts, what you would be practically doing is combining the policy cuts of the 1990 Budget Agreement, the 1993 Budget Agreement and doubling them.

On entitlements, if you take the projected numbers, exclude social security, you are looking at cuts in Medicare of $225 to $250 billion. In comparison, last year, when we were considering health reform, we were looking at Medicare cuts of $85 to $110 billion over five years. Many people suggested those cuts were too high.

Clearly, what would be needed under this program, our Medicare cuts are over double what was being suggested a year ago, the same types of cuts in Medicaid. Those numbers assume virtually holding military and civil service retirement payments flat, no COLAs over the next five years. I am not sure it would even accommodate new retirees as an increasing number of military and civilian people retire.

But that is an issue apart from amending the Constitution. If the agenda is to pursue that full speed ahead for you, you have every option under current Constitution, under current law, to proceed with that policy. But, in my judgment, amending the Constitution is a serious mistake.

[The prepared statement of Representative Sabo appears in the Submissions for the Record.]

Representative Saxton. Thank you very much, Mr. Sabo.

We have been joined by the gentleman from Indiana, Congressman Souder, and we would be honored to hear from you at this time.

STATEMENT OF THE HONORABLE MARK K. SOUDER, REPRESENTATIVE FROM INDIANA

Representative Souder. Thank you for the opportunity to be here. I appreciate it.

There are several things I want to touch on in my testimony. One is the general importance of the balanced budget. I think most of us in Congress agree with that. We are concerned that if we dry up the savings and capital of this country in government expenditures and through bonding and other authorities to try to pay off our Federal debt, within five years we will see a growth in interest rates and inflation that could cripple any hope for economic growth and lead to a lot of unemployment. In the short term we have survived with it, but our obligations are such that we know we have to deal with the balanced budget.

I think in the short-term those of us who were elected understand we need to immediately start into the appropriations process. We cannot pass it off on a constitutional amendment. We need to make the hard decisions now and get to the point for future generations to deal with the question of how they are going to balance the budget.

Really, what we are dealing with here in this constitutional amendment are out-years. The core question, as one of the so-called freshmen revolutionaries who got a clear message, is how we are going to do it.

And the question that I believe was answered by the American people for the most part in the last election was that they do not want to see government grow. They want to see government reduced. They are concerned about the deficit, but they do not want to see accidents in reducing the deficit, increased taxes or other things that increase the growth of government. They want to see spending limited, and they want to see taxes limited.

So now when we get to the process of accomplishing this, we must ask, do we enshrine in a constitutional amendment protection for those citizens? In my opinion, the two major alternatives on the table both have the 60 percent in it. So it is not predominantly in those two choices a constitutional question. The question is, what are you going to focus on?

Clearly, I think there is agreement between us that we should have a super-majority in order to increase the deficit. The core matter of

contention at this point is, do we have a super-majority to keep the compromising on the budget and the tax side that has occurred almost every time a deal is made not to include taxes?

Some of us would have been happy if there had been a fixed spending limitation, but that is not in the Contract With America. What is in the Contract With America is the tax limitation or the super-majority on at least the income taxes.

I have been told that sometimes you have to compromise. The Amendment that is in the Contract With America is a compromise. It only includes the income taxes. It does not include all taxes, does not include a spending limit as far as the gross domestic products. It has a 60 percent, not a two-thirds, and I think it is already a compromise.

We compromised to get to that point. We had a referendum. There are some who do not agree with that referendum.

As one of the freshmen who ran against the deal-making of Congress, I am concerned that we are hearing the same message we heard about the 1990 budget package, "we are going to come down unless we increase taxes." I have an inherent distrust of the compromise that usually says we should split the difference and do part through taxes and part through deficit reduction. I don't see a whole lot of enforcement mechanisms in the constitutional amendment. Taxes are real. Deficit reductions do not seem to occur.

We have to deal with the deficit reduction. What happens after you have a package and you go to the next year and you did not get the deficits? Supposedly, the cuts you were going to make did not happen. Do we have to go back and recoup those the next year? I don't quite see that in there, but the taxes will stay permanent.

And I think the American people, the more the light of day comes on the compromises, will understand that the choice here is are we going to have some sort of compromise between taxes and spending whenever there is a deficit, or are we going to have a straight spending reduction and a reduction in the size of government.

I appreciate the opportunity to put that on record. I think most of the Republicans at this point are in agreement with that. I hope we can get to two-thirds. My personal opinion is that the American people will be able to understand the difference with the tax limitation requiring super-majority and those amendments that do not have it.

Thank you, Mr. Chairman.

[The prepared statement of Representative Souder appears in the Submissions for the Record.]

Representative Saxton. Thank you very much.

We have been joined by a number of our other colleagues this morning, and I just want to make sure everyone knows they are here. Mr. Stark has joined us, Mr. Thornberry has joined us, as well as Senators Bennett and Craig and Congressman Hamilton.

We are going to operate here, out of necessity, by the five-minute rule. And since we do not have an automatic timer, one of our staffers will kindly remind us, gently, when five minutes has passed.

Let me just begin with one question, and I would like to direct it to Mr. Sabo. Over the weekend I read where one of our colleagues, the gentleman from Massachusetts, Marty Meehan, was quoted as saying that he does not know of any legitimate deficit reduction plan that does not include some increases in revenues. Do you agree with that? And is that the general thought process on your side of the aisle?

Representative Sabo. I would never attempt to categorize the general thought process on our side of the aisle. I would not attempt to speak for other colleagues.

Clearly, we have gone through two packages: 1990, which was a bipartisan agreement; and 1993, which included both the spending cuts and revenues. The revenues last year were targeted at the income tax of the most affluent in our country. Clearly, those packages have reduced the deficit substantially.

The deficit is a percentage of gross national product. Today it is at the lowest level it has been at since 1979. That package significantly reduced the role of the Federal Government, employment by the Federal Government. They adopted very hard spending caps for discretionary spending.

The agreement in 1993 basically extended the caps on discretionary spending from 1993 through 1998. As you look at where the growth is in Federal spending, the real escalation is in health care costs. And the question of how we come to a rational change in health care policies so that we control those escalating costs are the key questions before the Congress. That is where you see the rapid rise projected in Federal spending. It is not in discretionary spending.

Retirement programs, as a percentage of gross national product, remain about level. The escalation of cost is health care funding. We have to come to the conclusion as a society whether we can control those

costs or what we want to spend for health care, complicated by the fact that we have an aging population, not only from people over 65 but we have also a rapidly escalating percentage of population over 85 in what we categorize as the frail elderly.

Representative Saxton. I think you and I and a lot of other Members of Congress agree as to the thrust of what you just said, and that it is going to be tough to make some cuts, and we are going to have to be tough about that.

That brings up, I think, the real core of what we are debating here today, is whether we have the capability as an institution to make those tough decisions or, on the other hand, something that has been done on numerous occasions in the past, when we cannot do it, we just increase taxes.

Representative Sabo. Mr. Chairman.

Representative Saxton. Let me finish my question.

The gentleman from Massachusetts indicated he does not think -- I think this is what he said -- he does not think we can do this without some increase in taxes. As a matter of fact, I remember not too long ago we were taking part in a debate very similar to this one and looking how to put together a balanced budget amendment that would pass, and my buddy, Mr. Stenholm, and your predecessor, Mr. Panetta, had put together a package that provided for automatic tax increases and cuts to entitlements such as social security, automatic increases in taxes should Congress not deal with this problem in a legislative way.

So there certainly seems to be a bias among some in the House who would provide for tax increases, even automatic tax increases in some cases.

Representative Sabo. Just to be accurate, I think that -- I was not a coauthor of that proposal, but I think that proposal called for at least two-to-one in spending cuts over revenue increases or three-to-one in spending cuts over revenues.

Those are legitimate policy debates for the Congress to have. The Constitution should not govern the outcome. There are folks who want to write their prescription of what policy should look like not only now but 50 years from now into the Constitution. I think that is fundamentally wrong. That should be subject to the give and take of the political dynamics of a particular time in history and the needs, and economy of our country. The goal of the Federal budget policy is not only to have sound fiscal policy but to also be doing those things that build the economy of this country.

I know there are people today who want to return the role of the Federal Government to what it was before the New Deal, before 1952, to 1932. I am not one of those. I think the Federal Government clearly has many problems we have to deal with, but I think the Federal Government has also played a very substantial role in developing the economy in this country over the last 60 years, in building an economic system that is fairer and more just for many of its -- most of its citizens than it was 60 years ago -- or even 30 years ago when I first started in this process.

Representative Saxton. Thank you very much. My time has expired.

Mr. Stark?

OPENING STATEMENT OF REPRESENTATIVE PETE STARK, RANKING MINORITY MEMBER

Representative Stark. Thank you, Mr. Chairman. I would like to follow up with my colleague, Mr. Sabo.

First of all, I would like to thank all the colleagues. I apologize to Mr. Mica for just coming in at the end of his statement.

I want to repeat an offer that I have made repeatedly to those who want to have a balanced budget amendment but seem incapable of telling us how we could do it. I am willing to give $2,000 -- I have raised it -- to the charity of your choice to anyone who can show how they can increase defense, cut overall spending, freeze social security and taxes at their current level and balance the budget. I will try it one more time. You cannot do it.

Now, we have heard about courage today. And I would suggest that what we are really hearing from the balanced budget proponents is a cacophony of cowardice -- people who will not vote for the Black Caucus Amendment, which will balance the budget, but will not offer one of their own. Any idiot can vote for a balanced budget amendment, but a statesman or an economist or somebody who understands business is one who could show us a plan to get there.

There is no family -- no middle-class family in this country that would own a home today if they had to live by the rules that the balanced budget wonks want to impose on government. There is no company, whether it is the Kohler Corporation or the Sunbelt Railroad, that would be in business today if those businesses had to operate on a balanced budget.

I don't know where people think debt comes from on corporate balance sheets. They must think there is a debt fairy out there who

produces that for corporate America. This is a fairyland of avoiding your responsibility because you cannot do it. You do not dare so you can vote for a balanced budget amendment and make peace with Rush Limbaugh.

One of the things we could do, 500 of us could write a book. That would be two and a quarter billion dollars a year. We could follow the Speaker and get four and a half million bucks from some lobbyist to write a book, throw the money in the pot, and we would have two and a quarter billion a year. We could try that. It makes about as much sense as a balanced budget amendment.

Representative Roth. Mr. Stark, I have another solution.

Representative Stark. Good, Mr. Roth. What is your solution?

Representative Roth. My solution is you should take that check, write the $2,000 to the Salvation Army, because I have your answer for you.

Representative Stark. I bet you do.

Representative Roth. And we had the bill on the Floor, and you did not vote for it last time.

Representative Stark. I doubt very much --

Representative Roth. It would balance the budget over five years. It makes 500 specifics cuts.

Representative Stark. Mr. Solomon's Amendment? He has already tried. He lost.

Representative Roth. He lost on the Floor because he did not have the votes.

Representative Stark. He did not win the prize. The numbers did not come out. Gerry tried. He came close, I must admit. Congressman Solomon gets an A for trying, but it did not work in the numbers. Aside from that, it was the best choice, the best attempt.

But, gentlemen, what we have to do is get to work. And Mr. Sabo hit it right on the head. There was a recent case in which the Supreme Court upheld a lower court decision to force a local government to increase taxes. Now, if that happens under this proposed amendment, we could find ourselves in the interesting situation of our brethren across the street forcing us to raise taxes. This could end up in the courts for a long time.

I would suggest we quit dancing on the head of a pin and get down to work. Work with Mr. Sabo, work with the Budget Committees and balance the budget and tell the American people the truth of what is going to be occurring. You will have to cut defense, and you are going to have

to have some more income from the very rich to pay for all of this. And then let us get on with doing what this government does so well.

Thank you, Mr. Chairman.

[The prepared statement of Representative Stark appears in the Submissions for the Record.]

Representative Saxton. Thank you, Mr. Stark.

Senator Mack, do you have some questions for these gentlemen?

OPENING STATEMENT OF SENATOR CONNIE MACK, CHAIRMAN

Senator Mack. I don't know that I really have any questions, and I was going to attempt to avoid making any statements and try to get to our next panel, but this constant drumbeat, this doublespeak, frankly, that takes place -- if we had actually cut what we claimed we have cut in the 12 years I have been in the Congress, there would be no government left.

The reason I say that is because we have a very strange way about talking about cuts around here. We have not made any cuts. And even under the comments that Representative Sabo made a minute ago, $800 million I think was the number, $800 million in cuts -- and you know what? At the end of the five years in which we had made $800 million in cuts, the Federal Government would still be spending more money than it is spending today.

So the first thing --

Senator Bennett. Would the Senator yield? It is billion not million.

Senator Mack. $800 billion. Thank you very much. The point is the same.

Senator Bennett. Exactly.

Senator Craig. Absolutely.

Senator Mack. The point is the same. After this supposed cut of $800 billion, we would be spending more money five years from now than we are spending now. It is about time we changed the rhetoric and used phrases and terminology that everyone in the country can understand. And the only way, in fact, to bring that about is to set up a mechanism that forces the Congress to do that.

I am going to take just one more moment to tell a story that I have told over and over and over again, and it is about the first vote that I cast as a Member of the Congress. The reason it was a big deal to me was

because I had never been in any kind of legislative body before I ended up in the Congress.

So my first vote in the House in 1983 was the first vote I ever cast in any kind of legislative body, and it was a fairly simple vote. It was not going to change the direction of the world. It was not going to have a major impact on the budget deficit, but, again, it was the first vote. Big deal, you know.

In fact, one of you mentioned it. I guess you are a new Member. I thought that when I came up here that all those TV cameras that had been following us around during the campaign somehow or other would end up on the Floor following me around to see how I was going to vote so they could report back to my constituents on what I did first. It was a big deal.

The question that was before us was should we add a new committee to the Congress of the United States. I must tell you I came here with a preconceived idea that we already had too many committees and that we were spending too much money and that the staffs were growing and that was the problem.

But I thought, well, being brand new, and never having done this before, maybe I should wander around the Floor of the House of Representatives and just ask different people what they were going to do. And, as I did that, here is the information I got: We already have too many committees. We have staffs that are out of control. We are spending way too much money. We do not need this new committee.

Well, I thought to myself, I am going to get the opportunity to cast my first vote with the overwhelming majority as a Member of the Congress. I cast my no vote, and I then, when I looked back to see how people had voted on that screen behind the Speaker, I think 34 of us voted against the committee.

Now, what I did not tell you was that the name of the committee was the Select Committee on Families and Children. The other bit of advice I got that day was you do not vote against something called families and children and go back home and run for reelection. That is a true story. That is the first experience that I had as a Member of the Congress, and I think it tells it all. If there is not some form of outside restraint placed on the Member's ability to spends taxpayers' dollars we will never get control of it.

I thank you, Mr. Chairman.

[The prepared statement of Senator Mack appears in the Submissions for the Record.]

Representative Saxton. Thank you.

Mr. Manzullo.

OPENING STATEMENT OF REPRESENTATIVE DONALD MANZULLO

Representative Manzullo. I first want to thank you for the opportunity to be on the Committee.

Marty, I have I guess a policy question. I realize you are outnumbered on the panel and, therefore, you have to wax eloquent three times as hard as you normally do, but you made a statement you do not think the Constitution should be used as a vehicle for policy change.

Does that mean that the 13th and 14th and 15th Amendments, which gave substantial rights to African-Americans in this country, that the Constitution was not the vehicle for that? That it should have been done by statutory language?

Representative Sabo. No. I frankly think the Constitution is a declaration, a basic governing document, the structure and the reinforcer of basic rights in this country. It is one that, with few exceptions, whenever we have limited it or whenever we have amended it, it has been to expand rights in this country, to expand rights of minorities, to give women the right to vote.

There have been a couple of exceptions. In my judgment, both of those have been mistakes. One was prohibition, which was later repealed. The other was the Amendment limiting presidents to two terms. In my judgment, constitutionally, that was a mistake. I have never supported and have regularly co-sponsored amendments to repeal that Amendment. Those are exceptions to the general rule and the nature of our Constitution.

Our Constitution has provided the basic framework; and when we have amended it, historically, it has been to guarantee and expand rights for citizens in this country; and that is the role it should play.

Representative Manzullo. I agree with that.

I guess my frustration -- and we could take every argument that you gave against amending the Constitution, and I can accept it as verity, and every argument the other three Members gave in favor of amending it -- I guess the frustration is that of all the well-intentioned plans of Members

of Congress in both Bodies over the past several years with regard to bringing down the deficits, including the distinctive challenge by Mr. Stark, nothing has worked.

Representative Sabo. Let me just fundamentally disagree. What we did last year worked.

Representative Manzullo. But it is going up. And all the spending cuts will occur in the out-years. We are still waiting for the spending cuts to occur.

Representative Sabo. No, that is not an accurate history of what we did. Where we are today is no great mystery.

I was here in 1981. I voted no. We did substantial tax cuts which substantially reduced the revenue base of the Federal Government. I voted against that. Then also, in 1981, we started a very rapid increase of defense spending. I voted against that.

The people who give the most vehement speeches on behalf of a balanced budget amendment are all the people who voted to put in place the basic policy that produced this in 1981. We struggled through the 1980s never getting it under control. We began in 1990, and one of the things that happened was we had a recession. The fact is the 1990 budget deal had an impact on reducing deficits today, but we got caught up in the problem that any balanced budget amendment is going to run into, we had a recession. The President and Congress did not respond to that recession. That increased certain expenditures, slowed other revenues.

We also had the problem of the S&Ls we had to deal with, which escalated the deficit. But the spending discipline on discretionary spending we put in place in 1990 in the agreement between the leadership and President Bush worked. The spending limits and discretionary spending of 1993, which we extended through 1998, are working.

Representative Manzullo. Well, I would --

Representative Sabo. Let me finish.

Representative Manzullo. All right. I do have another question.

Representative Sabo. When we get to the question of how we control it for the future, that is the core. The key is health care. And if somebody has some great mysterious plan of how we deal with the escalation of health care in the Federal Government, that relates primarily to Medicare and Medicaid, which are growing very, very rapidly.

Senator Mack is right. Those are going up, projected to go up 10 percent. If somebody has a magic solution to bringing those down to 1

percent, which is roughly what you have to do under your Contract With America, I am anxious to hear those proposals.

Representative Manzullo. Well, I would give you those, but my time has expired.

Representative Roth. Mr. Chairman, I wonder if I can respond to that very briefly.

Representative Saxton. Very briefly.

Representative Roth. Our friend touts the 1990 agreement. Look what happened with the 1990 agreement. The American people said, no, we do not want it. And that is one of the major reasons the President, in 1992, was defeated.

Look what happened in 1993. Another proposal that was touted.

Look what happened on November 8th of 1994. One of the principal reasons all the people who voted against that either lost or went way down in the polls.

So, if you are going to ask what do the American people want, which is what we should be asking, they are asking for a balanced budget amendment with a three-fifths formula.

Representative Saxton. Gentleman, Mr. Thornberry will inquire.

Opening Statement of Representative Mac Thornberry

Representative Thornberry. Congressman Roth, let me follow up a little bit on another example. Like the gentleman from Indiana, this is my first term in Congress. I was a staffer up here, though, at a time when we passed the Gramm-Rudman bill, and I remember the expectations that were there. You could see on the chart that it did not matter what we did, that there would be automatic cuts to get us to a balanced budget in a certain time frame, and yet we are still not there. In fact, we are going the opposite direction right now.

What does that experience tell us and what shall we learn from that when we are considering whether to deal with this situation simply by statute and by passing budgets or whether to have some stronger enforcement mechanism?

Representative Roth. That experience tells us that all of these statutes, the five we have had in the last 15 years, it all turns out to be nothing but flimflam if you do not have muscle behind it, if you do not have a way of implementing it behind it. That is why the three-fifths

formula to raise taxes in this Balanced Budget Amendment is so important.

What our friends on the other side of the aisle and others are going to ask you to do is put your wager on this horse that has run 45 times and never won a race. We are saying, hey, we have to start learning from experience. And experience tells us that we need a new paradigm, a new approach, and that is what the Balanced Budget Amendment with the three-fifths formula will give us, something that none of these other statutes have given us. That is why it is so important.

The other reason is that the American people have said no to 1990, to that agreement. The American people have said no to the 1993 tax bill the President signed -- emphatically said no. And the American people have emphatically said yes to the Balanced Budget Amendment with the three-fifths formula. Take a look at the polls. Let us follow the people for a change and not some elitist group that has never won before.

Representative Sabo. Might I respond to the Gramm-Rudman question? I will try to keep it brief.

I did not vote for it but, frankly, one of the problems was that it set targets, and what you got from both the Administration and Congress was a lot of gamesmanship, lots of rosy scenarios to meet those targets. One of the very fundamental differences between Gramm-Rudman and the 1990-1993 Budget Act as related to discretionary spending, those two set caps on the discretionary side, and we have met those.

Under Gramm-Rudman you have the assumptions of interest rates that were going to dip immensely, which are unrealistic. While I voted for the 1990 budget agreement, there was also a 1989 budget agreement between the leadership and President Bush in his first year as President. I did not vote for that budget agreement because I thought there was too much smoke and mirrors in it.

Representative Saxton. Thank you very much, Mr. Thornberry.

Senator Bennett.

Opening Statement of Senator Robert Bennett

Senator Bennett. Thank you, Mr. Chairman. I have a whole series of notes here of things I want to respond to.

First, if I could get Mr. Stark to change his bet just a little. He made the statement no one who understands business would be in favor of this, and no business operates this way.

If you will offer the two grand, I think I understand business, having built a business, and I can show you one that lives under these circumstance and currently is trading on the New York Stock Exchange with a net value of about three-quarters of a billion dollars. When I joined them as the CEO they were worthless.

I think I have a little background in this circumstance. If you want to change your bet from that of a charity to a business, I will be glad to talk to you and tell you to give your two grand to GOPPAC, which might not be the charity you had in mind.

Representative Stark. No, that is not a charity.

Senator Bennett. Now, Mr. Sabo, I am sympathetic with many of the things you raise. I am deeply troubled about the idea of trying to use the Constitution as the vehicle for legislation. However, I am equally troubled about our inability to deal with some of these issues.

I hear you talk about interest rates and moving from short to long in terms of government debt. We have done exactly the reverse in this Administration: 70 percent of our national debt is now under 10 years, moving towards short-term.

And I would argue that the diminution in the size of the deficit has come because of Treasury's triggering the interest rate circumstance far more than the President's economic package and that we may very well be facing the Federal version of Orange County, whose treasurer did exactly the same thing, betting on lower interest rates and locking himself into a circumstance which, when the interest rates turned, turned around to bite him very badly.

And we are facing the same circumstance right now with the Treasury, as I say, having moved us over the last two years more and more into short-term instruments because the interest rates were lower so that the deficit will look better and then taking credit for the tax increase and the President's program when, in fact, I think it has been debt manipulation. I will let you respond, and then I will ask further.

Representative Sabo. In response, historically, we have been better off with short-term debt in terms of interest payment, and -- but that, in part, has been possible because we have not had a balanced budget requirement. As you move to that, then I think fiscal responsibility would say that you would go all to long-term debt, and that could have -- historically would have an impact significantly raising interest costs for this country.

It is a rare exception that we would pay more because we have shorter term debt than when we have long-term debt. That is the history of it.

But I think the Amendment, if it is passed, in effect, fiscal prudency should say you should move to all long-term debt so it is not volatile from year to year. I expect political expediency may push people to do the opposite.

Senator Bennett. That is an issue we can debate elsewhere.

But my only point was that we need to be careful about saying that the increase in taxes that came as a result of the President's program has lowered the deficit when I think there is another explanation, and it is that the Treasury has deliberately been very aggressive, moving us into short-term debt and therefore lower interest rates in the short term.

As the interest rate circumstance turns, as I say, the Treasury is going to get caught in the same trap that Orange County got caught in. Because the Orange County treasurer was betting on that, and he bet wrong. And when the time came to change, instead of changing, he doubled down on his bet, as they say in Las Vegas, and ended up bankrupting the County.

Another point that I want to make, and it goes back again to my disagreement with Mr. Stark. If I can put it in the context of the business, yes, we accrued some debt in the business. This Amendment would require a 60 percent vote to allow us to do that.

I can assure you in the business, I had to go before the shareholders and get not 60 percent approval but 100 percent approval, and I had some shareholders that were pretty tough about that who did not believe in debt.

If you can make a logical case for debt, this Amendment allows that to be done. It simply says we won't go willy-nilly with the wave of the last election, and whoever won 51 percent of the vote gets to change things dramatically the way it happens in a parliamentary system. You go to the British world, and Mrs. Thatcher is privatizing. And then she loses, and the labor people nationalize. And then she wins again, and you privatize.

And this is saying, no, you have to have a national consensus to do that. I happen to favor the 60 percent circumstance because, having lived with one where I had to get 100 percent approval to do this, I find that it sharpens your ability to make your case. I think it is not an irresponsible thing at all to say before we do this we are going to have to make our case, and it has got to be overwhelming.

But the mechanism is there for you to do it if, in fact, as Mr. Sabo and Mr. Stark say, there are circumstances that require it. This Amendment does not deny you the opportunity to do that. It simply says you have to be able to make your case for it.

Representative Saxton. Senator Bennett, thank you very much. Your time has expired, and we appreciate your enthusiasm and your commitment to this notion.

I want to thank all of you panelists for being here --

Lee, you indicated that you didn't -- or maybe you do now.

Representative Hamilton. No. I thank you. I appreciate the testimony of my colleagues, and we will just move on. Thank you.

Representative Saxton. Thank you very much. Thank you very much for being here this morning. You have been very helpful and very enlightening, and we look forward to continuing the discussion in a different forum.

Our next panel consists of three people: a former Assistant Attorney General, Charles Cooper; a current Assistant Attorney General, Walter Dellinger. And if you gentlemen would come forward we would appreciate it very much. We thank you both for being here this morning.

In case you hadn't arrived at an earlier time, we are operating today under a five-minute rule. So if you would proceed to make your statements and try to keep them to five minutes, we will appreciate it very much. We look forward to hearing what you have to say.

Representative Saxton. And we will start with Mr. Cooper.

PANEL II

STATEMENT OF THE HONORABLE CHARLES J. COOPER, FORMER DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. Cooper. Thank you very much, Chairman Saxton, Chairman Mack, Members of the Committee. I appreciate your inviting me to address this hearing of the Joint Economic Committee regarding the Balanced Budget Constitutional Amendment and particularly House Joint Resolution 1.

In light of my background and interest in the constitutional principles of Federalism, my prepared statement, which I have submitted, contains an outline of some of that background, but I have been asked to address in my testimony the implications for the states of passage and ratification of House Joint Resolution 1.

As I shall explain in a moment, I believe that the absence of any specific provision protecting the states from future unfunded mandates is a serious deficiency in the proposal and its principal competing proposals. The states are already groaning under the costs of implementing Federal

policies, and current proposals to provide statutory safeguards against future unfunded intergovernmental mandates, while well intended, will be entirely inadequate, I think, to restrain future Congresses from balancing the Federal budget on the backs of the states and state taxpayers.

Accordingly, I believe that ratification of a balanced budget amendment by the necessary three-fourths of the states is exceedingly unlikely unless a specific constitutional provision is crafted to protect them from added financial responsibility for implementing Federal policies.

Now, I hasten to make clear that I raise this concern as a strong supporter of a balanced budget amendment. I fear, however, that the effort will be in vain and this historic opportunity to avert future financial calamity will be lost, if the Amendment sent to the states for ratification asks them to accept on faith that Congress will halt or at least curtail its use of unfunded intergovernmental mandates, notwithstanding that the requirements of a balanced budget amendment would increase exponentially the incentives for shifting Federal financial burdens to the states.

Before turning to the uncompensated mandates issue, I should like to address briefly some of the constitutional objections that have been recently made by opponents of a balanced budget amendment.

The proposed Balanced Budget Amendment contained in House Joint Resolution 1 is born of a broad-based consensus of the American people that the Federal Government has grown not only beyond its constitutional authority and competence but beyond the ability of the taxpayers, both current and future, to support it. The current generation of taxpayers is simply tapped out. It takes the average American family until May of each year just to pay its taxes. Future generations of taxpayers have already been saddled by Congress with the responsibility of paying a national debt approaching $5 trillion, and most current projections of future deficits under existing fiscal policies make that figure look modest.

The proposed Amendment would not prohibit an increase in either taxes or borrowings. It would merely require that an increase in either be supported by a broader consensus in Congress than is required for other types of legislation.

In so doing, the proposed Amendment would create a constitutional bias against increasing taxes or borrowing to eliminate any excess of outlays over receipts and in favor of reducing spending or shifting the

costs of Federal policies to the States or to the private sector. I shall return to that point in just a moment.

Thus, the proposal would add to the existing fiscal provisions of the Constitution another rule governing Federal fiscal decisions. And that brings me to a frequently voiced objection to a balanced budget amendment. Many opponents of such a measure have argued that the majestic protections of our Constitution should not be cluttered with provisions relating to fiscal policy. Just yesterday, Hobart Rowan wrote in *The Washington Post* that a balanced budget amendment would "denigrate the document that deals with the big issues -- individual rights, the system of separation of powers, the ultimate guarantor of our system of liberties in effect since 1776."

Now, I yield to no one in my reverence for the Constitution, especially the provisions of the Bill of Rights, even including the Second and Tenth amendments, but the Constitution is not limited to the Bill of Rights, and many of its provisions restrict Congress in the area of fiscal policy.

Article I, Section 7 provides that all bills for raising revenue must originate in the House of Representatives.

In the prepared text, Members of the Committee, I have outlined several -- a number of provisions -- and I see...

Representative Saxton. Go ahead. Finish up your thoughts.

Mr. Cooper. Several provisions that make clear that the Constitution contains a host of fiscal provisions far narrower and less important than the restrictions that would be added under these proposals.

If the Federal Government's budget deficits and accumulated debt load has reached crisis dimensions, as many people believe it has, and if all statutory measures designed to restrain Federal spending have proved ineffective, as they plainly have, then a remedy of constitutional dimension is plainly warranted, and the people are entitled to insist on it.

I go on in my prepared statement, Mr. Chairman. If my time has expired, I guess I will have to refer the Committee to it.

Representative Saxton. Why don't you take another minute or two and just try to conclude? Because we certainly want to get the full benefit of your thoughts.

Mr. Cooper. You are most kind. Thank you, sir.

I note in the prepared statement that a number of constitutional scholars, not the least of whom is my good friend and successor in office at the Office of Legal Counsel, Walter Dellinger, have opposed this

Amendment, largely for concerns relating to judicial enforcement of the Balanced Budget Amendment.

Apparently, to these opponents the question of enforceability of the Amendment is a no-win issue. On the one hand, judicial enforcement of the Amendment's requirements is unacceptable because, they argue, countless lawsuits would be generated, the courts would be called upon to decide difficult budgetary issues that are inappropriate subjects of judicial resolution, and existing constitutional arrangements governing the distribution of Federal powers would be disrupted.

On the other hand, the absence of judicial enforcement of the Amendment would be equally unacceptable, for it would render the measure an empty promise, likely to be routinely violated by the Congress.

According to Mr. Dellinger, a balanced budget amendment to the Constitution is doomed to fail if it is not judicially enforceable and is doomed to fail if it is. Others agree with Mr. Dellinger, as you can imagine, and I am sure you have heard their testimony.

Now, contrary to this view, judicial review and enforcement of the Constitution is provided for under Article III, Section 2, which extends the Federal judicial power to all cases in law and equity arising under this Constitution. No additional measure needs to be enacted in order to ensure judicial review.

Former Attorney General William Bar testified recently on this subject before the House Judiciary Committee, concluding that in light of the political question and standing doctrines, which would apply of course to any judicial enforcement of the Balanced Budget Amendment, a judicial enforcement of such an amendment would most likely be reserved to address serious and clear-cut violations.

I think Mr. Bar's analysis of the issue is sound, and I do not recoil from the notion that a serious and clear-cut violation of the Balanced Budget Amendment would be reviewable by the Federal courts. To the contrary, I recoil from the notion that it would not.

As I mentioned, Mr. Chairman, at the outset of my testimony, there is a serious flaw, in my opinion, in the design of House Joint Resolution 1, a flaw that I fear will ultimately prove fatal to its ratification -- the absence of any provision protecting the states from future unfunded mandates.

By now, the crushing financial burdens on state and local governments of unfunded Federal mandates are no doubt well-known to every Member of Congress, and I will not trudge through the statistics on

this, although my prepared statement does attempt to demonstrate the extraordinary increase in the types and the cost and the coercive nature of the unfunded Federal mandates.

But I do believe that, as currently formulated, these constitutional proposals pose a clear and present danger to the states. If it is ratified, future Congresses will not be able to fund Federal programs and policies through increased taxes or borrowing unless they can muster the support of 60 percent of the Members of both Houses. The primary alternative efforts for Congress to fund new and expanding policies will be to reduce its spending in other areas or to shift the cost of implementing the Federal policy to the states through unfunded mandates.

I think it is unrealistic to expect the states, in light of the Congress' track records in both of those areas, to embrace and ratify a balanced budget amendment that is certain to deepen rather than relieve their current fiscal woes. While the states are no doubt willing to do their share in the war against the burgeoning fiscal deficit and the fiscal catastrophe that it portends, I do not believe that they will agree to become kamikaze pilots.

In short, Mr. Chairman, I think a balanced budget amendment should include a provision that explicitly protects the States -- if for no other reason than ratification would be imperiled if it does not. I also think that ratification of the Amendment would be imperiled if the Balanced Budget Amendment does not include a provision requiring a three-fifths majority for increases in taxation, the subject that I know interests you most.

Thank you.

[The prepared statement of Mr. Cooper appears in the Submissions for the Record.]

Representative Saxton. Thank you very much, Mr. Cooper.

Mr. Dellinger, we will move over to you. As you note, we have been quite liberal with the enforcement of our five-minute rule, so you proceed; and we are interested in your perspectives as well.

STATEMENT OF THE HONORABLE WALTER DELLINGER, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. Dellinger. Thank you very much, Representative Saxton, Senator Mack, Members of the Committee.

I am pleased to discuss these issues, and I will try to be relatively brief because I look forward to discussing these issues with you today and

with Charles Cooper, who is not only one of my predecessors but also one of those whose guidance and counsel I sought on how to conduct this Office and who has been extremely helpful to me.

The central concern of the Department of Justice that I would like to discuss today is that the Balanced Budget Amendment fails to address the question of how it is to be enforced. That is, the Amendment is said to be a mechanism for fiscal discipline; and yet what is missing from the Amendment is any specification of a mechanism that will, in fact, bring about the desirable state of affairs in which outlays do not exceed revenues.

What the Amendment proposes to do -- and this is the source of our concern -- is to constitutionalize the budget process without defining any limits on what the judicial role will be under that process and without defining limits on what the role of the President would be in ensuring that outlays do not exceed receipts, in the case of the Senate version, or that actual outlays to do not exceed estimated outlays, in the case of the House version.

We have concerns, when an amendment sets out no remedial mechanism that it will first lead a President to conclude that he has -- without defined limits -- the power to "ensure" that actual outlays do not exceed the outlays set forth in the statement.

I think the President's advisors would inform him that his constitutional duty, once this is part of the Constitution, is to ensure that the substantive commands of the Amendment are complied with. The Amendment would not only empower him, but would require him, to take whatever steps he needs to take to rewrite the budget.

I have discussed this with my academic colleagues, some of whom have supported the Balanced Budget Amendment, some of whom have not. They have different views on whether the President would be required to cut across the board, whether he could choose to cut entitlement programs, whether he would be restricted to discretionary cuts, whether he could order increases in revenues through user fees and other methods or whether there are any limits on what the President could do.

If the President took steps to cut certain expenditures, it is quite likely that the beneficiaries of those expenditures -- who would have a right under the laws of the United States as enacted by Congress -- would bring litigation in Federal court saying that the President was not authorized by this Amendment to the Constitution to take those actions on his own, or that the court should place some limits on the manner in which the

President carried out his empowerment authority. And surely, as intended beneficiaries, they would have standing.

We believe that what the Amendment does is this: by constitutionalizing the budget process, it also judicializes the budget process. That is, the normal understanding has been, over the past 201 years, certainly since Marbury v. Madison was decided in 1803, that -- it is the province and duty of the court, as Chief Justice Marshall, said, to say what the law is. That is, that the normal assumption would be that judges would be involved in interpreting, applying and enforcing an amendment of this kind.

Now, there are a number of doctrines that generally limit judicial involvement in budget matters. And I think Mr. Cooper and I would agree that those are generally salutary doctrines. I like to see lawsuits limited to real lawsuits among real litigants with a real stake in the outcome.

But it is nonetheless the case that judicial involvement in the budgetary process at present is limited because the constitutionalization of the budget process is limited by the existing Constitution. But when you translate those doctrines into a new and fundamentally different Constitution --

Senator Mack. Have you been carrying that Constitution as long as Newt Gingrich has been carrying his Contract With America?

Mr. Dellinger. I think Senator Byrd said this Constitution was his Contract With America. I clerked for Justice Hugo Black, who has lots of ties in your home State, and he was never without his own dog-eared copy of the Constitution. He was also quite certain exactly what it meant. I have never been quite so sure myself.

Mr. Cooper. I don't intend to be outdone here.

Mr. Dellinger. Chuck has a bigger copy. He also has the annotations, which is sort of the cheat sheet that goes with it.

But here is the problem. It is true that the judiciary thinks it is inappropriate generally to be involved in budget matters, but that is because the Constitution itself wisely left issues of taxing and spending to the immediate representatives of the people. They chose generally not to constitutionalize the budget process; and, therefore, judicial review didn't follow.

In the narrow area where there presently is constitutionalization of the budget process, the courts have not been hesitant to jump in. For example, the one constitutional requirement you now have is the

Origination Clause, which requires that a bill for appropriations must originate in the House of Representatives. And in 1990 the Supreme Court, much to my surprise, considered -- on the merits -- a challenge by an individual, a criminal defendant, who had to pay a special assessment to the Crime Victims Fund. He challenged this requirement because the bill imposing it didn't originate in the House, in his interpretation of legislative events.

I thought the Court would say that is a political question. But only one Justice, Justice Scalia, suggested that the Court should not be involved. The majority concluded that because the Constitution chose to constitutionalize that little part of the budget process, judicial review was appropriate.

The Origination Clause, the Court said, is no less a requirement than the rest of the Constitution because it does not specify what consequences follow from an improper origination. None of the Constitution's commands explicitly set out a remedy for its violation, the Court went on.

Nevertheless, the principle that the courts will strike down a law that Congress has passed in violation of such a command has been well-settled for almost two centuries. That principle applies whether or not the constitutional provision expressly describes the effects that follow from this violation.

So I will conclude by saying that where the Constitution constitutionalizes a small part of the budget process -- Munoz-Flores is a 1990 decision -- the courts have not been hesitant to come in and enforce such a provision. What Congress seems on the verge of doing is constitutionalizing the vast array, the vast domain of the budget process; and that I think will bring the judiciary in to a far greater extent than would be desirable.

I would therefore urge, as the Administration has, that we consider other measures, such as the adoption of the line item veto, rather than a provision that doesn't contain any explicit enforcement mechanisms.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Dellinger appears in the Submissions for the Record.]

Representative Saxton. Thank you, Mr. Dellinger.

I would just like to pose a question to each of you here for the next five minutes or so and see if we can come to a position where I understand, at least in detail, what both sides of this argument are on the role of the courts should a balanced budget amendment pass.

First, let me say, however, that I suspect -- I think I know that the American people are not so concerned about how we get to where we need to be but that we get there and if, as far as the American people are concerned, the courts have some expanded role to play here. That doesn't matter as much as what matters is that we get to a balanced budget through some process.

And, apparently, Mr. Dellinger, you have some reservations about the Court playing a role in the budget process, and I am not quite sure that is a fair way to characterize it, because I am not sure the courts actually play a role in the budget process as much as they do play a role to make sure we do our job in accordance with the rules that we are about to adopt. But I guess my -- or maybe that we are going to adopt -- I hope that we are going to adopt.

I guess the basic question is, Mr. Cooper, Mr. Dellinger laid out some fairly articulate arguments, and I think it is fair to ask why you disagree.

Mr. Cooper. Well, some of what Mr. Dellinger said I agree with. The case that he cites to the committee and relies upon seems to me to make clear that a specific and stand-alone provision that would be included in the Amendment to either require judicial enforcement or, on the other hand, not require it, is really not necessary. In fact, there is no other constitutional provision, including the Origination Clause, that contains its own provision, relating to judicial enforcement.

There is a general provision in Article III of the Constitution that relates to all constitutional provisions, and it was under those general provisions that the plaintiffs in the case that Mr. Dellinger cites brought their suit on the proposition that Congress had violated a clear command of the Constitution and that the resulting enactment is therefore void.

I think the same would follow with respect to judicial enforcement of the amendments that you are now studying. For example -- and this example is not difficult to conceive of. It is discussed, in fact, in Mr. Dellinger's prepared testimony from a couple of days ago, perhaps in his testimony here. It is a simple situation where one body of Congress does not muster three-fifths votes but sends the measure to the President anyway.

It seems to me that if you assume a plaintiff has standing to bring that lawsuit, that kind of clear and serious violation of a constitutional amendment would be enforced by the courts and ought well to be enforced by the courts.

So I am -- I am not -- I don't want to suggest that I am sanguine about some of the potentialities in terms of the remedial measures that courts

could conceivably enact. I don't fear those horror stories. I don't think that would happen.

For example, I don't think at all, Mr. Chairman, that there is any likelihood that the courts would follow the precedent in Missouri against Jenkins and order a tax increase at the Federal level. I think other remedial measures would succeed long, long before that happened.

So the horror stories I don't fear, and I am frankly comforted by the notion that there would be other Article III limitations on judicial review, such as, standing political question. If those doctrines that apply to all constitutional provisions are satisfied, why shouldn't this provision be reviewed in Court and enforceable in Court?

Mr. Dellinger. Let me comment, because I do agree with a good bit of that, that I think probably the clearest case for judicial review -- perhaps the least problematic Mr. Cooper would argue, and I couldn't disagree -- the clearest cut case would be if the version containing a three-fifths requirement for increasing tax revenues were violated. In that case I think quite clearly adjudication would follow.

And, apparently, a straightforward case would be the least problematic. If a tax increase or revenue increasing measure passed with only 59 out of 100 votes in the Senate, the enforcement would come in a case of the United States versus a taxpayer. Assume a new excise tax on luxury boats. The purchaser of such a boat would resist the imposition of such a tax and would have standing. You would certainly get that kind of adjudication. And I think Mr. Cooper would suggest that is the least problematic kind. At the other end of the spectrum, the courts would probably be most hesitant about ordering tax increases. But in between is that gray area of cases involving the fundamental principle that outlays should not exceed revenues, in which a court would feel some obligation to see that the Constitution was complied with or at least to review dramatic action by a President.

What "Richard Milhous Johnson," a hypothetical President, would do with this provision is really quite sobering or energizing, given the sweep of the authority that it might contain. But I think that the uncertainties of how the courts would be involved with the outlays and expenditures issue part is really quite troublesome.

Representative Saxton. Thank you very much. You have a short --

Mr. Cooper. I would only add that the idea that the President could -- and would have a role in enforcing the limitations in the Balanced Budget Amendment strikes me as pretty likely in light of -- at least in

most of the alternatives that I have seen, the explicit reference to the President and his obligation to enforce.

But I have no doubt that in the aftermath of ratification of a balanced budget amendment Congress would enact some kind of provision providing guidelines for the exercise of that presidential authority. Perhaps the President would be authorized only to sequester or to essentially cut spending across the board. Perhaps there would be some order of priorities that the President would have to go through.

I have no doubt that Congress could limit that impoundment or rescission authority or whatever else the President might have to aid in the joint effort of the bodies to ensure that, in good faith, that they did not transgress the supreme command of the Constitution.

So the idea the President would be involved, again, is not a fearful prospect to me.

Representative Saxton. Thank you very much.

Mr. Stark.

Representative Stark. Thank you, Mr. Chairman. And I am intrigued by the possibilities that the witnesses open up for great legal fees at least.

You did mention, Mr. Cooper -- and I am just reading from a *New York Times* article this morning -- that the state budget officers representing the various states -- I guess they have their own little national association -- figure that they will be short about 600 billion bucks a year in direct Federal aid.

I have a little chart here that Florida, for instance, gets about 20 percent of its budget, California a third and Indiana 31 percent, Texas only 26, Utah only 23, but the governors have some interest in the fallout from this.

It goes on further in the article to say that every state but Vermont has a balanced budget amendment, but the truth is many of them snitch. They appoint regional authorities to build jails and basically get long-term debt and convert that, much like we used to do, tax dodges, by ordering income to capital gains. They have figured out how to borrow.

And it brings me to a question here. We could, I suppose, go to capital budgeting and start to borrow or, better yet, go to leasing, which we now do. We lease an awful lot of new post offices. That would show up -- let's assume it is a 20-year lease. To lease a new post office would -- simple matter, say it costs you about 5 percent for 20 years, what it would cost you to build one.

Now, what would happen under the constitutional amendment if all of a sudden we started to lease all of these capital expenditures? We wouldn't really do the subterfuge of going to a capital budget. We would just sort of privatize it. I don't know who would be the arbiter, who would decide whether if we leased a $2 million building, we should put $2 billion bucks on the budget that year or just $200,000 on the budget if we leased it for 20 years.

Now, I suspect that is the type of problem that you are anticipating, both of you, in how we are going to account for this, enforce it and operate within it. And, I mean, we have illustrated, whether it is through cowardice or taking care of our own constituents or whatever, a great deal of creativity in both Houses in finding ways to build statutes, post offices, bridges, universities in our own districts; and I don't suppose the interest in continuing to do that is going to diminish at all as time goes on.

Aren't these the areas in which, whether you like the Amendment or you don't like the Amendment, that I think I hear both of you expressing the concern is that there is an awful lot of room for gaming, confusion and litigation if we don't write out the rules in some detail and cross our T's and dot our I's? Would you both like to comment on my -- am I misinterpreting your concerns or --

Mr. Cooper. At some point, Congress would, I am sure -- and I cannot offer you any kind of economic theory for ascertaining where that point would be. But, at some point, I assume that Congress would go beyond the area of legitimate fiscal decisions that are entirely consistent with the restraints placed by the Balanced Budget Amendment -- that is, the restraints on outlays exceeding receipts -- and it would have within its capacity and its decision-making authority a decision to lease a facility rather than to purchase a facility if that would, through legitimate accounting techniques --

Representative Stark. Just yield for just a moment.

Implicit in that it is a little more expensive. If it is leased from a private party you are going to pay a little more interest than the government would pay if they went with shorter term debt, and I -- in my question, I am suggesting that for the -- in the aggregate, it is a little less efficient and more expensive to us to do that.

Mr. Cooper. It may well be that -- it may well be that there will be inefficiencies that are of the kind that you cite that would not be constrained one way or another, and I don't see why they would be constrained by the constitutional amendment and why -- or why courts

would be engaged in making those decisions. I don't think that they would be.

Representative Stark. Mr. Dellinger.

Mr. Dellinger. It seems to me that is one of many minor issues that could lead to litigation as you try to decide whether something is on or off budget. Once you have constitutionalized the budget process, that becomes a constitutional question.

There is really a very broad consensus that the courts will get involved in interpreting and enforcing this Amendment, although there are differences, among those who have looked at this question, over the extent to which the courts would become involved.

For example, Judge Robert Bork, who served as Solicitor General under President Nixon, believes that there would be "hundreds, if not thousands" of lawsuits. Solicitor General Fried, who served under President Bush, has testified that the Amendment would lead to litigation that would be "gruesome, intrusive and not at all edifying." Solicitor General Cox, who served under President Kennedy, believes that Federal courts all over the country would be drawn into lawsuits arising under the Balanced Budget Amendment. Mr. Cooper and former Attorney General Barr suggest that judicial review would be reserved for serious and clear-cut violations.

The dispute is not over whether courts would become involved, but over the extent which they would become involved. I don't think we know whether there would be one big lawsuit each year in which all these issues would be raised, or whether there would be many lawsuits in which individuals challenged particular actions as violations of the Balanced Budget Amendment -- such as, to take the example you suggested, Congressman Stark, whether a particular financing mechanism for the use of a building was a lease arrangement and how that ought to be counted against the constitutional limit on governmental outlays.

Representative Stark. The final thing is, is it conceivable the Court could then order us to either raise taxes, lower raises, raise expenditures or cut them under this?

Mr. Dellinger. It is certainly --

Representative Saxton. Mr. Dellinger, if you would like to go ahead and respond to this, and then we will move on.

Mr. Dellinger. I do think it is conceivable. That would be my response, Mr. Chairman.

Representative Saxton. Thank you very much.

Senator Mack.

Senator Mack. Thank you. I will just continue on in this vein.

It seems to me -- maybe first an editorial comment. I think it is rather interesting that we are hearing a number of people raising the concern that somehow or another there might be litigation involved with legislation that the Congress is involved with. I mean, there are always questions and responses, and I have a feeling that the Court's role will probably end up somewhere in between with the two points that you have raised.

I would love it if we could put together an amendment that could pass that would ensure no Constitution -- or no litigation and that the Congress did exactly what I have in my mind as to what should be done with respect to a balanced budget amendment. But I know that is not going to happen, and I just don't think that these arguments, frankly, are of such magnitude that they would say to me that we shouldn't move forward.

I mean, the reality is we are dealing with a set of issues that, for many decades and maybe almost two centuries, aren't of the significance that they are today. But we are literally talking about the destruction of the economic underpinnings of our society at some point.

I don't care whether you come at this from a liberal or a conservative perspective. To constantly increase the weight of the debt that we are experiencing in this country today -- and, frankly, we see it in everything we are doing now. Every question that the Nation is faced with, whether it is domestic or foreign policy, we are finding ourselves with fewer and fewer and fewer choices in responding to those.

The reason that that has occurred is because we, the Congress, collectively, Democrats and Republicans, have refused to address the issue. And the only way, in my mind, that it will happen is if we force the Congress to have to establish a set of priorities.

So while I listen to this debate about the legal issues that may develop, I hope that the times the courts are involved in these decisions are very, very, very few. But because the issue is so significant if they have to be involved to help force us along the way then so be it.

There was a term "not a fearful prospect" I guess I heard you say several times in your comments. I, frankly, don't find it at this point "a fearful prospect." Again, if I pin a juxtaposition to the failure not to do something, if we fail to act, if we continue down the road, I think the consequences are very, very serious.

So I appreciate the testimony that you all have given us this morning. I am not really sure that I have a question to pose to you.

Mr. Dellinger. Let me, if I could, briefly respond to your suggestion. I think that facing the uncertainties of litigation and plunging the courts into the budget process might be worth the risk if we thought we otherwise had a mechanism in place that would actually produce a balanced budget.

Senator Mack. Let me just hop in because that is --

Mr. Dellinger. Then the question is, where in this Amendment is the mechanism that actually gets us to a situation where we have a balanced budget.

Senator Mack. Yes. I suspect and maybe you all might be aware of this, but there are how many states around the Nation that have a balanced budget amendment? You said --

Representative Stark. Forty-nine, I think.

Senator Mack. Forty-nine. I would suspect that they have mechanisms to deal with exactly the issue that you have raised.

My own solution frankly, which I have proposed and that I would hope we would adopt, would be some form of a spending reduction commission patterned after the Base Closure Commission that would in essence say, during the budgetary process, if the Congress fails to meet that objective stated in the constitutional Amendment, that the -- a Spending Reduction Commission -- would be then authorized to propose the spending cuts necessary in order to meet what the Congress failed to do.

It would involve the President in the sense of the OMB would be the kind of the initiator of where those cuts should come from. It would have open hearings, just like the Base Closure, where people would make their arguments about why that would be devastating to their particular interests. It eventually would make its way to the Congress, and the Congress would have a simple up or down vote as to whether, in fact, to pass it. I think that, in fact, is a mechanism.

Now, other people may have suggestions about what they should do. I think for us to conclude that the passage of a balanced budget amendment in and of itself is the end of this debate and this discussion, I think is, again, being short-sighted.

Mr. Cooper. Could I make a point, Mr. Chairman?

Representative Saxton. Very quickly.

Mr. Cooper. Thank you. I think that it is difficult to conceive of any kind of constitutional proposal, any kind, that would not likely be expected to generate litigation. We, for better or for worse, are a litigious

society. The question is whether or not that litigation would generate meritorious litigation.

It strikes me as unlikely that retail level complaints over whether or not the decision by Congress or the GSA or whatever to lease versus purchase an office building is something that is implicated by the constitutional Amendment. It strikes me as very unlikely that that would be a meritorious lawsuit, and those would wash out pretty quick, though they would probably be brought.

It strikes me that, Chairman Mack, the commission mechanism that you have just described is a pretty sensible mechanism. If, on the other hand, this commission made its proposals to Congress, Congress ignored those proposals, continued to ignore the palpable truth that it was in plain violation of the Balanced Budget Amendment, well, maybe that would be a meritorious case to bring against the United States and maybe judicial intervention would be warranted in that circumstance.

I happen to think that it would be warranted. If a meritorious case is brought, then I don't think we have anything to fear from the idea that the courts will be ready to enforce the provisions of the Constitution. I think they will approach that responsibility with the utmost deference for Congress' prerogatives and the utmost deference to Congress' remedial decisions, as they properly should.

Representative Saxton. Mr. Cooper, thank you very much.

We are going to go now to our good friend, Lee Hamilton.

Representative Hamilton. Thank you, Mr. Chairman.

I have got a question that relates to another part of the Amendment. I understand, of course, that the economic aspects of this -- of this Amendment are the major ones and deserve major attention, but there is one provision that is bothering me, and I would just like to get your impressions on it.

Both of you are distinguished lawyers. Mr. Dellinger now represents a President, and Mr. Cooper did. And there is a provision in this Balanced Budget Amendment that seems to me to have quite an impact on the President's national security powers, and it is a provision in both the Stenholm draft and the Barton draft -- Congressman Barton is here.

The provision -- I think the provision is either identical or almost identical in both drafts, that Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an

imminent and serious military threat to national security and is so declared by a joint resolution adopted by a majority of the whole number of each House which becomes law."

Does that provision, if you think about presidential powers in the national security situation, bother either one of you? The President of the United States loses the initiative here, doesn't he? National security threat, but you can't do anything about it -- or at least he can't spend any money because it takes the joint resolution of the Congress.

Now, Congress historically, at least in recent history, is extremely reluctant to authorize military action. You can hardly get the Congress of the United States to authorize military action. Bosnia, Somalia, Haiti, even the Gulf War, we did not authorize it.

I think I am correct in that. So what does this do to the President's national security power?

Mr. Dellinger. Mr. Hamilton, I know this is an area in which you have been vitally interested throughout your time in the House, and I believe that is a very worthy question. It is not one that, to my knowledge, has previously been addressed or called to our attention, but you are certainly right to raise this as a point, because the Amendment would affect the President's ability to respond to a threat to the national security.

Currently, if the President believes that there is an imminent and serious threat to the national security of the United States, he may take whatever action is necessary to respond to that threat. Under this Amendment, however, assuming it all worked as everybody hopes, the President's ability to respond would be limited, because the Amendment would have locked us into a very tight outlays and expenditures situation.

As a result, even if there is an imminent and serious military threat to the national security of the United States, the President might not be able to act unless and until these provisions were waived by a joint resolution adopted by a majority of the whole number of each House. Such a resolution would be subject to filibuster, of course, in the Senate, with the result that the President's ability to act would be held hostage.

And if you think back through our history about what it took Abraham Lincoln to commit to the Civil War, and the wonderful story of Franklin Roosevelt and the program where he got out in front in making commitments, it becomes clear how limiting these restrictions could be. Particularly when you look at the Senate version, which requires actual hostilities or a declaration of war before Congress can waive the Amendment --

As I read the Senate version, as Ann Reed points it out to me, even a vote of the majority of both Houses is not sufficient to waive the Amendment to allow the President to respond to an imminent and serious military threat to national security, unless we are already engaged in military conflict. The House version does not include the engaged-in-military-conflict language, but under either version of the Amendment, there would be some problems.

Representative Hamilton. Excuse me, Mr. Cooper. Go ahead.

Mr. Cooper. I was only going to acknowledge that you have raised a question that certainly I have not heard raised before and had not myself considered, and it is worthy of serious examination. The only --

Senator Mack. Mr. Hamilton, I wonder if I --

Representative Hamilton. Sure.

Senator Mack. Isn't the context here whether the President can, in essence, violate the, quote, balanced budget, not as to whether he can engage in military activity?

Mr. Dellinger. To be fair, that is correct. That is to say, as long as he had existing budgetary authority, he could act.

Senator Mack. And where is this impinging on his authority any more so than, say, the War Powers Act?

Mr. Dellinger. I think in several respects.

One, assuming that we are at the tight edge of the budget, Senator Mack is correct to point out that to the extent that the President has the existing Defense Department operation and maintenance budget and can move troops around within that budget, this would not pose a constraint.

But -- and on this I would be not an expert, and some of you all would be-- I suspect that there often would not be sufficient play in the Defense budget to enable the President to respond to an emergency in a significant major military move by the President, such as the deployment through Desert Shield of 600,000 troops to the Persian Gulf, would raise budgetary questions. I suspect that you simply can't mount an operation of that kind without running up expenditures beyond what is then appropriated in the budget. That is why this particular provision would have the bite that Congressman Hamilton suggests.

Mr. Cooper. But that has always been true, and the President has previously had to rely upon Congress to support him in those endeavors and -- at least to the extent of mustering a majority in both Houses. A President can spend -- I don't think anybody does not acknowledge and agree that the Congress' spending authority, its power over the purse, is

a restraint even on the President's Commander-in-Chief authority, and that is really its most muscular power when a President is exercising those very muscular powers.

A President has always been able to exercise those powers within the constraints of his fiscal wherewithal as Congress has provided it. And if he deems it necessary to go beyond that, he has had to rely upon Congress to support those efforts at least by majority votes. This would suggest, to be sure, that a President, in the absence of a waiver occasioned either by a declaration of war or the resolution that at least this House version describes, would have to get 60 percent support in both Houses. But, obviously, if he had 60 percent support, he would have majority support to waive the provisions and at least acknowledge the eminent military threat.

Mr. Dellinger. Also, this cuts in at a slightly earlier point than the War Powers Resolution would in an unfolding national security situation. That is, even assuming that the President needed congressional authorization to launch Desert Storm, to actually launch the attack into Kuwait and Iraq, it was not thought that he needed congressional authorization -- and he did not obtain congressional authorization -- for the earlier and perhaps much more dispositive step of sending 500,000 or 600,000 American troops to Saudi Arabia as part of Desert Shield. That part was done without a prior congressional authorization, without the War Powers Act locking in.

And that may be the kind of action that would be constrained -- action that would not be reached by the constraints of the War Powers Resolution. This may deserve some attention. This may not be an unfixable issue.

Representative Saxton. Thank you very much. We are going to have to move along to Mr. Thornberry at this point. Thank you very much.

Representative Thornberry. Thank you, Mr. Chairman.

Just to step back a little bit from the details. I am very sympathetic with the concerns related to the role of the judiciary in what is otherwise political decisions. We have had a Federal district judge run the prison system in Texas for a number of years, and it was not a good situation at all. I guess my real concern, though, is why would judicial involvement in this be so much worse than everything we have got going on right now?

A couple of things come to mind. One is, again, a Texas example. We have a provision in our Texas constitution that says something like

every schoolchild shall get a good and equal education. Well, the Texas Supreme Court comes back and says that is not being done now. It does not say you have to do these specific things to remedy that situation. It does not come back and say you have to raise taxes in these districts so everybody gets an equal share. It says to the legislature you have so many days to fix this problem. And it seems to me that would be a more likely scenario with what we are dealing with.

But the other thing that occurs to me is, dealing with the War Powers Act, enormous difficulties have developed in what it means to declare war, and we have had a debate around here for a long time on that. What Congress did is pass a law that a lot of us questioned, but it does what you said, Mr. Cooper, and that is provides a specific type of mechanism that fleshes out whose responsibility it is to do certain things.

I cite those things that come to mind by way of asking why is this judicial intervention so much worse than all the rest of it that is going on out there.

Mr. Dellinger. I think that is a very fair question, and let me respond by going back to the Texas school situation. There have been a number of state courts that have under state constitutions ordered refinancing of the method by which schools are financed, and I have not myself studied that litigation.

But the case came up from Texas to the United States Supreme Court. I think one of the most difficult cases I have ever had to make up my mind about was San Antonio v. Rodriguez, which was a claim dealing with those Texas school disparities, and in which the plaintiffs contended that the United States Supreme Court should set a national constitutional rule about school financing.

And the plaintiffs made a very powerful case, by my light, but I thought in the end, on balance, that Justice Powell had the better of the argument in saying that for the courts to get enmeshed -- on a national basis -- trying to reallocate and redistribute budgetary income in accordance with a single national rule would be way beyond judicial competence. So they backed away.

That was under the very general principles of the equal protection clause. If you enacted a Balanced Budget Amendment you would be inviting a national constitutional rule relating to the budget process, which I think is really much more disruptive than state-by-state constitutional adjudication. I think your comment does relate to what Mr. Cooper says, which is that we already have a lot of litigation.

Let me just make one final suggestion. Charles suggested that I am making a heads-I-win, tails-you-lose argument. Either we will have all this judicial involvement and an avalanche of lawsuits or, on the other hand, the Amendment will be unenforceable and an empty promise that will breed cynicism. Actually, my argument is that the situation would be even worse: I think that we could have both.

I think we could both have litigation, which would cause the problems we have discussed -- indeed, it might even call into question, to some extent, our full faith and credit in the bond markets, while we have Supreme Court litigation going on about the budget.

At the same time, we could have the litigation and still not achieve actual balance.

I am concerned about what it would mean under the Constitution if we were to make heroic progress and got the budget deficit down to $100 million. We would all agree that we would still have a $100 million violation of the Constitution.

And, as I have suggested to others before, why would courts then take seriously some businessman's claim that there had been an unconstitutional taking of his property to the tune of $10,000, when we had not come within $100 million or even $10 billion of complying with the newest amendment to the Constitution? That shortfall of the judicial remedy would begin to lead us to a point where we did not take the Constitution seriously as hard law, invocable in court by a litigant.

Mr. Cooper. Actually, I think that point is premised in your testimony on the idea that the Balanced Budget Amendment would not be judicially enforceable -- let us assume a provision in the Amendment itself that says courts have no role in this, which, of course, they would have to observe.

The conclusion that, as I understand it, flows from that is that Congress would then engage in promiscuous, routine violations of its sworn oath. I am reluctant to accept that scenario. I think, rather, that Congress would do the kind of things that Chairman Mack has suggested, with the kinds of mechanisms necessary to keep itself within the solemn direction of the people in their Constitution.

If I could take just a moment to respond to Mr. Thornberry's -- Congressman Thornberry's -- points. I certainly agree with Walter that Rodriguez was correctly decided. I didn't have to grieve long over Justice Powell's decision on the notion that the Equal Protection clause outlaws property tax funding of local education throughout the country. I

represented a state in a state constitutional claim of that kind, and so I have got some familiarity with that area.

But that area, as well as most other areas that I can think of where Federal constitutional provisions are invoked -- for example, the school desegregation area -- the routine and accepted technique of the courts is to first say to the legislature, prepare a plan, prepare a remedial mechanism to bring yourself within the rules that we have just announced apply in this circumstance.

Oftentimes, the violations of the Constitution were not necessarily deliberate. But, in any event, the legislature gets the first crack, and then when -- it is only when a legislative body, a state actor, a Federal actor, simply refuses to come up with a legitimate remedial approach that the courts must come in and craft the least intrusive, most effective remedy that is possible.

I disagree with a lot of the remedies that have been crafted, Judge Justice's among them in the State of Texas. But I take some comfort in the doctrines that exist that limit and ought to limit that phenomena.

Representative Saxton. Thank you, Mr. Cooper.

Let me thank both of you very much for being with us here today. You are both advocates of different positions. You have advocated your positions extremely well. You have, once again, shown us there are many sides to legal issues, but we thank you for being here today and for helping us understand these.

While this panel is retreating and the new panel is coming forward --

Mr. Cooper. Thank you, Chairman Saxton.

Representative Saxton. The new panel will be made up of Pat Cooksey, of True Blue Patriots, who will be introduced by our Conference Chairman, Representative Boehner; and Olivia Eudaly, with the Camelot Properties, from Texas, who will be introduced by Representative Joe Barton, who is the Congressman from Texas who is no stranger to this debate; and Jake Hansen with The Seniors Coalition, Vice President of The Seniors Coalition. And, if necessary, I will be his introducer.

There is also Gary Stewart with us today. Is Gary here? He can also come forward.

While we are all getting settled here, let me say we have been very liberal in the enforcement of our five-minute rule. Because of the constraints of time, we are going to have to be a little more strict. So when the red light comes on, if you are in the middle of a thought, please

conclude the thought, but try to finish up within a minute or two of the time you see the red light.

Is Mr. Wertheimer here? Would you like to come forward too, sir? Thank you. While Mr. Wertheimer is getting settled, Mr. Barton, would you like to begin?

Representative Stark. Mr. Chairman, we have somebody from the Children's Defense Fund, if he can identify himself.

Mr. Weill. Jim Weill.

Representative Saxton. Would you like to be seated, please?

PANEL III

STATEMENT OF THE HONORABLE JOE BARTON, REPRESENTATIVE FROM TEXAS

Representative Barton. Thank you, Mr. Chairman, and I will leave the dais as soon as I make the introduction.

It is my honor to introduce Mrs. Olivia Eudaly from Fort Worth, Texas, as one of our panelists. Mrs. Eudaly is co-owner of Camelot Properties, which is a real estate company, a management company in the Tarrant County area. She is on the board of the John Peter Smith Hospital. Her husband is the past Regional Administrator of Housing and Urban Development under President Reagan. Mrs. Eudaly is a past member of the State Republican Executive Committee. She is also a past appointee of the Veterinary Medicine Board in the State of Texas. She is the mother of five children and has been very active in Tarrant County and the State of Texas both civically and politically in the last 10 to 15 years.

Representative Saxton. Thank you, Mr. Barton.

Ms. Eudaly, if you will bear with us for just a moment.

Ms. Eudaly. Sure.

Representative Saxton. Congressman Boehner is here with us to make the introduction of Ms. Cooksey, so I know he is often running in a thousand directions.

STATEMENT OF THE HONORABLE JOHN BOEHNER, REPRESENTATIVE FROM MICHIGAN

Representative Boehner. Thank you, Mr. Chairman and my colleagues.

Good morning. It is my pleasure to be here with you this morning to introduce to you one of my constituents, but, more importantly, a friend of mine named Pat Cooksey.

Pat, like many of us, got involved in the political process out of frustration, frustration that Washington could never solve our spending problems and that we continued to have deficit spending that put America's families in jeopardy and the children of our country in jeopardy. And she and her husband founded an organization called True Blue Patriots, a nonpartisan group of people who have become politically involved on a nonpartisan basis trying to address the problems we have with our Federal budget deficit.

As we like to say here in Washington, Pat is a real American, who has real concerns, and who has come to Washington today to share those with us, and I hope that we will all listen attentively. Thank you.

Representative Saxton. Thank you, Mr. Conference Leader.

Ms. Eudaly.

STATEMENT OF OLIVIA COGGIN EUDALY, CAMELOT PROPERTIES

Ms. Eudaly. Thank you very much. Can I preface my remarks by saying they take eight minutes. Is that acceptable?

Representative Saxton. We have the red light on already.

Ms. Eudaly. It is already red, so I am in trouble before I start.

Chairman and Members of the Committee, thank you, of course, for the privilege of appearing before this Committee concerning a matter which is of vital significance to the future of this country. The priority consideration which you have given to this legislative matter bespeaks your collective wisdom and bodes well for the future of all of us who are citizens of this great land. I present to you in a few brief minutes not facts and figures but a 25- to 30-year cumulative perspective on this important piece of legislation.

Pardon me if my presentation is not laden with governmental jargon or doublespeak, but, in reality, time has run out for approaching a balanced budget in that fashion. Pardon me if my presentation is too simplistic, but the reason I have come here today is to help you see how the rest of America outside the Beltway views our country's predicament.

Pardon me if my presentation sounds a bit too logical, for I know it must be all too easy to become immersed in facts and figures and rhetoric and to look at a tome like the *Catalog of Federal Domestic Programs* and

decide the problem is too mammoth to address with fortitude. Pardon me if my presentation is all too clear, but, in reality, when presented with the choice of saving a country, which includes my five children and their future grandchildren, a balanced budget is all too simple and all too clear.

And, also, pardon me if my presentation seems too direct, because if others outside the Beltway, my fellow Americans, Mr. and Mrs. USA, for whom I speak here today, if they had the podium, I can assure you that they would communicate with directness and forthrightness and would explain to you with the intensity of their feelings that pervade this country and the gravity with which the mammoth fiscal problems currently facing these United States must be dealt with.

I perceive it is not necessary for me to take your valuable time to restate the amount of our national debt or the burden which it imposes upon every American. Nor is it necessary or helpful to spend time laying blame or looking back. Where we are is where we are. Now, the question is simply, how do we get out of the mess we are in?

Therefore, my presentation comes to you in the form of a symbolic story with which each of us in this room can identify. Hopefully, I will provide a fresher, clearer perspective and will arm you with the resolve necessary to pass the Barton Tax-Limitation Balanced Budget Amendment.

Gentlemen, if I were to come here today to this hearing and tell you that my role in our family back home in Texas is that of a homemaker or housewife, if I were to say that I am not the breadwinner, so to speak, that, actually, my husband and I have an agreement: I have agreed to provide certain vital services within our little country that we call family and that he has agreed to provide the funds for those services, not in the form of a tax exactly but in a similarly agreed upon fashion, that is, a percentage of his income on regular dates, *etcetera.*

If I were to tell you that these funds that I am to oversee include the health and human services, the education, the transportation, the commerce, the labor, the interior – decorating -- housing and, shall we say, urban development of our five children and our little family citizens; if I were to say to you, sirs, these services are vital and expensive and necessary and essential to the well-being of our citizen group, then you would most certainly agree and would have no problem understanding the arrangement under which we operate within our little country in order to care for our very important citizens.

However, if I added that I have been married since 1968 and that I have not balanced my budget in all that time and that I have continued to

request more and more money from him for these services and that, in fact, I have borrowed so much money that the money he now gives me to perform these vital functions for the good of our citizenry group goes towards substantially satisfying the debts which I have incurred; that I have spent his hard-earned money on items he and I have never agreed upon; that I have, in fact, squandered the money he entrusted to my care; that he has tried to put a limit on my borrowing but I have tricked him with a rule that raises my debts automatically whenever I spend additional money; and I have devised another nifty trick to look as if I have cut my spending by using the current services base line so that my spending can go up each year; and that he has tried to impose restrictions on my spending but to no avail because I have the checkbook; you would say to me I am living in a fairyland.

You would ask me how it is that this patient man has been willing to stay with me for so far long, why he has not done something to stop this capricious mishandling of the money he has laboriously worked to earn in order to provide for our family citizens and why he continues to increase the funds available to me.

You would ask -- you would, in fact, demand that I go home immediately and balance my budget by, one, lowering my spending; two, stopping my borrowing; and, three, most of all, not asking that poor man for another penny, for he has been very patient indeed.

You would probably impose restrictions on me to prevent my conning, coaxing or bamboozling that man out of another increase of any kind, except for dire emergencies that could threaten the very foundation of our family. You would tell me in no uncertain terms that the problem is not that my husband has provided too little but that I, the wife, have spent too much.

This scenario would remind you of another in which you find yourselves, and you would feel uncomfortable responding to my problem with such a clear, concise solution, but in your hearts, you know it is right. Just as you know that a rigorous method to prevent increased taxation is the solution to curbing spending at the congressional level.

You would tell me to curb my spending and to expect no further increase in funds, except in the case of a dire emergency, and in such an emergency you might allow for a one-time temporary increase of funds based on a tough policy such as the super-majority vote, which is the best solution before Congress. But, otherwise, you would limit my available funds to current levels, reduce my spending and put an end to my borrowing.

You would have no problem understanding the necessity of such a move because you are a people of good sense. You know an emergency when you see one, and you recognize the need for drastic action. You are the elected, the few, the called, the chosen leaders of this land, and you can see a problem and handle it with integrity and forthrightness, for you are the Congress of these United States.

In the words of Peter Drucker, you are leaders, not managers. For management is doing things right, but leadership is doing the right thing.

And so, respectfully, with pathos, I say to you that the Congress of these United States is that hypothetical allegorical wife, and we, the citizens of these United States, are that overtaxed husband. We have provided the funds that the Congress has requested, assessed, cajoled and demanded, and now it is time to use that money wisely by balancing the national budget without delay by lowering spending, stopping borrowing and, most of all, asking for no new taxes except as allowed by a super-majority.

Please, sirs, like that housewife who has taken advantage of her hard-working husband for too long, open your eyes to the absolute necessity of at least -- at least -- balancing the budget -- not in words alone but in reality -- and then moving toward giving that poor breadwinner some relief. He has definitely earned it.

[The prepared statement of Ms. Eudaly appears in the Submissions for the Record.]

Representative Saxton. Thank you very much. It was a very, very thoughtful statement; and we appreciate it more than I can say.

Ms. Cooksey.

STATEMENT OF PAT COOKSEY, TRUE BLUE PATRIOTS

Ms. Cooksey. I am honored to be invited to speak today on behalf of the people who have gathered to call themselves True Blue Patriots to encourage Congress to stop increasing taxes and introduce spending cuts and deal with government waste.

I and my husband two years ago realized our complaining either had to stop or we had to become better-informed citizens. We began that process by listening to the introduction of the 1993 budget bill on February 17th.

When I listened to that all that I could hear was an increasing growth of government, all of which I could recognize would cost money that the taxpayers would have to provide and in so doing would teach our children

to look to government -- that government would provide inoculations, government would provide student loans, government would provide jobs -- not the family, not the individual by his own efforts.

During that speech I was offended because I heard the definition of patriotism altered to be one of endorsing a certain fiscal policy. And I determined that I would gather information from the Congressional Budget Office when the President said for us to do so.

In the process of gathering that information I learned about baseline budgeting, which is the equivalent of my telling my husband I saved a whole bunch of money by spending it at a sale. I learned that government was growing much faster than our income and the income of most of my friends. I learned that my husband's job in manufacturing was exceeded in numbers by government employees. And I learned that government had been on a rate of spending over a dollar and a half year after year after year for every dollar that it took in. And I recognized that I could not very well spend a dollar and a half of our income and then go to my neighbors and tell them that both they and their grandchildren would be responsible for paying back the debts I had incurred.

John and I took the information we had gathered and sent it literally to everyone on our Christmas card list and to some radio stations and in the process found ourselves deeply encouraged that American people are not apathetic nor are they particularly uninformed. Many of them had a gut level instinct for years which told them there is a problem in our Nation, and in the last two years many of us have committed to becoming better informed about that problem.

We have done things like writing postcards to you signed a patriot from Cincinnati, from Phoenix or St. Louis, Missouri or Indianapolis. We have gone and put literature on Frank Cremeans' and Steve Chabot's mailboxes, all over their Districts. We have written letters. We have made phone calls. We have consistently urged Congress to restrain its fiscal spending and change its habits in a manner that will be more representative of the American people.

You might wonder why we would assist outside of John Boehner's District in the races for the last election on November the 8th. You see, the budget process of the 103rd Congress taught me something that I will never forget, nor will my son forget it.

We were fortunate we were able to come to Washington, D.C. for the last week of the debate; and we were seated in the House gallery the night of the vote. We sat and we watched the vote. And I was quite interested

to see what looked like a fabric panel suddenly become a list of names, and I watched as the tally went up at either end of the room.

And it looked for a while as though we would win. All of the protests that had been mentioned on the Floor by people that we had elected to represent us were going to be heard, and we were very encouraged. There was actually a point at which the count said we were winning.

And then, suddenly, I looked up, and that board in front of me began to change. And votes which had been red became green, and there were people scurrying around on the Floor, and I really could not understand what was happening. You can imagine the shock and the dismay of my son and myself and my friends when I learned that Members elected to represent taxpayers of the United States had been badgered and pushed to change their votes, and that night our interests were not represented on the Floor of the House.

The next night we went into the Senate, and we watched from the gallery, and my 17-year-old son was still enthusiastic about we just might do it tonight. And we watched, and the voting began, again following lengthy discussions about the amount of protests that the American people had made concerning this 1993 tax increase.

And then we noticed that one of our friends who had also traveled with us was having to leave the gallery, and where we had been told both the night before and that day there were to be no demonstrations in the gallery, and my emotional nature had to be restrained rather than going yea or no.

And suddenly the gallery was filling, and as the gallery filled, the steps were filled. And then the Vice President entered the room, and he cast his vote. And, with that vote, that tax increase that so many thousands of us had said we do not want was passed. And then the gallery broke out into applause and cheering and whistling. And the Vice President sat silently until it died way down. And then he grinned, and he said, there will be no demonstrations in the gallery.

And we had been misrepresented. We had watched not a clear majority voice of the American people but a manipulated majority, one which was determined to represent the Members of Congress, not the taxpayers, one which was saving the Presidency, not saving the Nation.

I urge you today to realize that we, the taxpayers, want to see a clear majority, not a manipulated majority, one which represents the thousands of people who have voted and placed representatives in office, telling them very clearly the identical, simple, clear-cut statements such as made by the lady to my right.

We understand balancing our budget does not mean we have the right to in debt other people's grandchildren. We urge you to represent yourself better to the Nation and to restore some of the image of Congress by demonstrating your commitment to truly represent the American taxpayer.

We would appreciate it if you would pass a balanced budget amendmen and view that as a portion of the process toward restoring fiscal sanity.

[The prepared statement of Ms. Cooksey appears in the Submissions for the Record.]

Representative Saxton. Thank you so much, Ms. Cooksey. I lived through much the same experience as you did on the occasion, particularly on the House side, and I guess I would say that I was disappointed, as were the American people.

There was another demonstration that occurred after that happened on November the 8th and, as a result of that demonstration, we are trying to do things just a bit differently. So we hope that we are successful in doing that.

Thank you for being here. Your statement was articulated very well, and we appreciate it very much.

Ms. Cooksey. Thank you.

Representative Saxton. Mr. Hansen. Mr. Hansen is with The Seniors Coalition. It is an organization made up of, as I recall, several dozen -- or maybe more than that -- senior organizations, national organizations. And we appreciate your being here to share with us feelings of your members.

STATEMENT OF JAKE HANSEN, THE SENIORS COALITION

Mr. Hansen. Well, thank you, Mr. Chairman. We represent about two million older Americans around the country, members of the organization, and I will tell you, it is a pleasure to see you up there in that seat.

This is not a new issue to The Seniors Coalition. Since our inception we have fought for a balanced budget amendment. We have had experts on social security and expert economists look at the issue as well as hearing from thousands of our members. Their conclusion: Give us a balanced budget amendment.

During the elections and in recent debates we have heard from many politicians that a balanced budget amendment will destroy social security. However, the question is not will a balanced budget amendment destroy social security, but rather can social security survive without a balanced budget amendment.

In recent issues of our newspaper, *Senior Class*, we surveyed members regarding various components of the Contract With America. Preliminary results, a random sampling of 1,000 surveys, show that 92 percent of our members support a balanced budget amendment.

As you know, up until 1983, the Social Security system ran on a pay-as-you-go basis. That is, the amounts of money going into the trust funds from payroll deductions was basically equal to the amount of money being paid to benefit shares of the day. In the late 1970s, the economy was a disaster. Inflation was up, and unemployment was up. The result, social security was headed for bankruptcy at breakneck speed.

In 1983, a bipartisan effort saved social security by changing the benefit structure and raising social security payroll taxes. This effort created a new -- and potentially worse -- problem: a rising fund balance in the social security trust funds.

For this balance has been borrowed by the Federal Government. Today, the Federal Government owes the trust fund about $430 billion. And by the year 2018, according to the Social Security Board of Trustees, that figure will be a shade over $3 trillion. At that time, the entire Federal debt will be -- well, who knows what -- $8, $10, $12 trillion.

The point is, how will the Government ever pay back the trust funds? They could monetize the debts, they could borrow the money, make massive cuts in benefits, raise taxes or simply renege on the debts. The fact is, any of those would be bad for older Americans and bad for the entire country; and The Seniors Coalition does not find any of these alternatives acceptable.

Mr. Chairman, the Chairman of our advisory board is a gentleman by the name of Robert J. Myers. He is often referred to as the father of social security. He wrote last year of his support for a balanced budget amendment and said: In my opinion, the most serious threat to social security is the Federal Government's fiscal irresponsibility. If we continue to run Federal deficits year after year and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current profligacy or we will print money, dishonestly inflating our way out of

indebtedness. Both cases would devastate the real value of the Social Security Trust Funds.

The bottom line is, if we want to protect the integrity of social security, the only way is through a balanced budget amendment.

Now, with that said, the question becomes, will just any old balanced budget amendment do? The answer is, some are better than others; and some are absolutely not acceptable.

First, some people are suggesting that the social security should be exempted. That should be something that an organization like ours would leap at. The fact is, we are concerned that such an amendment would end up destroying social security as more and more government programs would be moved to social security to circumvent the Balanced Budget Amendment. We will not support such an amendment.

Our first choice is a balanced budget amendment that controls taxes as well as spending, an amendment such as Congressman Barton's. We support a tax limitation and would like to see this Amendment voted on. We would urge every Member of Congress to vote for this.

If this Amendment does not pass, then we will willingly support a balanced budget amendment such as the one offered by Senators Hatch and Craig. While I am concerned about taxes, I believe that last year's elections have shown us that we, the people, do have the ultimate power; and I believe that had we been forced to pay for all of the government we were being given we would have made massive changes much sooner.

Mr. Chairman, we believe that what is most important is that America be given a serious balanced budget amendment as soon as possible. We will work with you and with your colleagues in every way possible to make that happen.

Thank you.

[The prepared statement of Mr. Hansen appears in the Submissions for the Record.]

Representative Saxton. Thank you very much, Mr. Hansen. We appreciate your being here, and you are articulate as usual.

I understand Mr. Stewart and Ms. Mazzarella are together, and Mr. Stewart will be the spokesman.

Mr. Stewart. Right. Thank you, Mr. Chairman.

Representative Saxton. And you represent Speak Out America.

Mr. Stewart. Right, which is a nonpartisan group based in Highland, Michigan.

STATEMENT OF GARY STEWART AND KAREN MAZZARELLA, SPEAK OUT AMERICA

Mr. Stewart. We appreciate being asked to come to Washington to testify before you today. For Karen Mazzarella and myself are not only here as co-founders of Speak Out America but for the thousands of our members that are average, middle class American taxpayers that play by the rules, work hard to provide a better life for themselves and their families and pay their taxes.

We are frustrated by our elected officials. For decades, we have elected officials for the sole purpose of changing the way government does business. Once in office they soon are overwhelmed by the political process. It becomes business as usual, and they fail to deliver what they promised to the American public.

Out of desperation, our members, many of whom have never been politically active before, have been forced to take time out of their busy lives to involve themselves in the political process. We have spent many hours reviewing proposed bills, studying the Constitution, watching C-SPAN, attending meetings and working hard to reach the American public with our message and get our people elected.

The mass media may have reduced politics to tabloid sensationalism, but in grass roots America, largely through groups like ourselves, millions of Americans are educating themselves and examining almost every aspect of government.

So we welcome this rare opportunity to share our views with you today in the hope that you will continue what we worked so hard to achieve in the November elections, and that is for Congress to examine itself and, hopefully, reach our conclusion that you must redefine and reduce the role of the Federal Government and begin with making the Balanced Budget Amendment and the Contract With America a reality.

In terms of today's discussion, we believe strongly that the budget deficit problems are a result of bloated government excesses, not tax shortages. Out-of-control government spending and continued years of deficits has created a tax burden that deters business growth, is destroying middle-class jobs, income and jeopardizes our children's fiscal futures.

According to the 1994 Clinton budget plan, generation-Y, the tots of today looks forward to paying 82 cents of every dollar they earn in taxes mostly to pay the interest on our debts. Taxing the unborn is not the type

of taxation without representation that our founding fathers had in mind, and we do not take amending the Constitution of the United States lightly. But based on the recent history of undisciplined government spending of one generation's money by another, a strong balanced budget amendment is not only appropriate but is necessary.

Every state has some statutory or constitutional requirement to balance its budgets resulting in 49 of 50 states that operate in balance or surplus -- strong evidence that these statutory restrictions work.

We do, however, have grave concerns over the type of balanced budget amendment that must be passed. Historically, as in 1990 and in 1993, Congress sought to reduce the deficit by raising taxes. It is imperative that any balanced budget amendment must include some tax limitation provision similar to Representative Joe Barton's three-fifths super-majority vote to raise taxes.

Balanced budget amendment proposals that have an automatic tax increase provision are unacceptable. This kind of amendment could be used as an excuse to raise taxes simply by continuing to increase spending, triggering automatic tax increases. No appropriation, no vote, no accountability to voters, no budget restrictions, no deterrents?

It is also important that any balanced budget amendment accompany legislation to prohibit unfunded Federal mandates. We cannot reduce the size of the Federal Government simply by transferring Federal programs over to the States as mandate obligations.

Speak Out America would like to see a strong balanced budget amendment, including the three-fifths super-majority Tax Limitation provision, come to a vote only after legislation is passed prohibiting unfunded Federal mandates. If, as an amendment, it does not receive the required majority vote to pass, then so be it, and let those who vote against it take the consequences.

Passage of a watered-down version just for the sake of claiming passage of a balanced budget amendment would have reverse consequences from what was originally intended. We would rather see no balanced budget amendment pass and let Congress go about the business of balancing the budget through the normal legislative process. A simple majority is all that is needed.

We are not political lobbyists or a Washington think tank. We are concerned citizens that drove nine hours to give you this five-minute presentation in the hope that we all make the hard decisions and take action to balance the budget, preserve our country and stop this fiscal insanity.

I leave you with this quotation from author Fred Holden as to why: "If we do, our children will never forget us. If we do not, they will never forgive us. If we lose it, if America fails, our children will ask, what were you doing when freedom died? What was so darned important in your busyness of business?" We ask, what will be your answer?

[The prepared statement of Mr. Stewart and Ms. Mazzarella appears in the Submissions for the Record.]

Representative Saxton. Well, thank you, Mr. Stewart. We appreciate your being here very much.

Where did you drive from for nine hours?

Mr. Stewart. We came by dogsled from Michigan. Through the snow, I might add.

Representative Saxton. We appreciative that you made that wonderful effort, and we thank you very, very much for coming.

Mr. Stewart. We thank you for your efforts, Mr. Chairman.

Representative Saxton. The next two gentlemen which I am going to introduce, they and their organizations, are really no stranger to those of us in Washington and people around the country as well.

Before I introduce them, let me apologize, if you will, for the confusion that has occurred here this morning. We are glad you are here. We have taken care throughout the proceedings of the morning to make sure that the panels were as balanced as possible, and we are glad you are here. And so if I may ask Fred Wertheimer, who is with Common Cause, to address us at this moment.

STATEMENT OF FRED WERTHEIMER, COMMON CAUSE

Mr. Wertheimer. Thank you, Mr. Chairman. I have some remarks I would like to insert in the record and just summarize my thinking.

Representative Saxton. So ordered.

Mr. Wertheimer. I appreciate the comments that have just been made and the depth of feeling that they represent. They are part of a notion that we deeply believe in, which is that citizens should get involved and citizens can make a difference and that is what makes our democratic system work.

I think we also know that citizens have different points of view. And certainly I am here to represent our organization, with 250,000 members, in a different point of view. And, of course, the fact that citizens have different points of view ultimately require this to be resolved through our

political system, through our representative government and ultimately through you and your colleagues in Congress.

I want to focus on just two aspects of the Amendment and the debate. The first has to do with the argument -- the assertion that there is a popular consensus for the Balanced Budget Amendment. And I want to focus my remarks on the Balanced Budget Amendment, not on the question of whether we need to deal with fiscal problems that exist in this country, whether spending has to be gotten under control, whether we need to do a better job in terms of managing our country's finances -- because I believe we do. But I do not necessarily believe that is the same issue as this constitutional Amendment to balance the budget.

First area I want to talk about is the popular consensus that does or does not exist for this Amendment. And here I refer to a remark that the House Majority Leader made on January 6th, which you are no doubt familiar with. He said, "We have the serious business of passing a balanced budget amendment, and I am profoundly convinced that putting the details out would make that virtually impossible. We have the serious business of passing this Amendment, and if the American people knew what the details were, that would make it virtually impossible." That is the import of House Majority Leader Armey's comments.

We also know that while you get very broad support in polls for the Balanced Budget Amendment in the abstract, if you start going beyond that and asking people specific questions where you lay out what the implications and the impact may be, those polls reverse, and you go from majority support to minority support.

So the first point I would make is, we very much question the popular consensus for this Amendment when seen in the light of what this Amendment would do. We think it is very telling to be approaching this on the notion that the way in which to implement the will of the majority of this country is to do it in a way to make sure that people do not fully understand what the implications are of this proposal because if they do it would make it virtually impossible to pass.

Second point I want to address is this Amendment. This is not a balanced budget amendment. It is not. This is an amendment to pass unbalanced budgets through three-fifths vote. Every Congress, every year, is authorized to pass an unbalanced budget, at whatever level of unbalance, based on a three-fifths vote.

Now, part of the notion and the frustration that is behind this Amendment comes from the idea that Congress cannot discipline itself, does not have the will, and, therefore, we need to have a constitutional

amendment to ensure that will is going to be exercised. Why the escape clause? Why every year allow a three-fifths for an unbalanced budget?

I would submit to you that is exactly what we are going to get once you put escape clauses in here, a three-fifths unbalanced budget. And, therefore, what you are doing with this Amendment is enshrining in the Constitution minority rule, and we firmly, vigorously oppose the abandonment of a concept that has been with us since the Constitution was written. Embedded in the Constitution is the notion that majority rule should prevail in this country, not the view of minority, not the voice of a minority.

And that takes on central importance when you get down to the fact that you are resolving differences between citizens. Our democracy is based on the notion of majority rule.

What Madison said in talking about majority rule in the Federal papers, and I quote, in all cases, if you go to super-majorities, "in all cases where justice or the general good might require new laws to be passed or active measures to be pursued, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. The power would be transferred to the minority ."

I don't believe that is good for the country. I believe that is a disservice to the Constitution. That is not the way to resolve differences between citizens either sitting before you today or the more than 200 million who sit in this country.

So we believe that the effort of disciplining the government, dealing with our finances, should go forward but not with an amendment that abandons majority rule and not with an amendment that is not and will not be a balanced budget amendment.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Wertheimer appears in the Submissions for the Record.]

Representative Saxton. Thank you, Mr. Wertheimer, for your articulate statement as well.

Mr. Weill is with the Children's Defense Fund and makes his home in this area.

Mr. Weill. Thank you, Mr. Chairman.

Representative Saxton. And thank you for being here.

STATEMENT OF JAMES WEILL, GENERAL COUNSEL, CHILDREN'S DEFENSE FUND

Mr. Weill. I am Jim Weill, General Counsel with Children's Defense Fund, and we deeply appreciate the opportunity to testify here today.

It has become one of the most widely accepted beliefs in politics and public policy in the 1990s that our very large annual deficits are piling up a debt that will be a burden on our children and our grandchildren. And we at the Children's Defense Fund absolutely agree that the deficit, despite recent strides, remains much too high and should be brought down, that we have to reduce this burden on our children and grandchildren and that government can be streamlined and the deficit can be cut.

But the children on whom this burden is going to fall are the same children who today are not getting prenatal care, and not getting decent child care when their parents work. Nine million of these children have no health insurance; 15 million children live in poverty in this country. So it is going to be a double hit on our children and grandchildren if we leave them this debt, but then also, at the same time, deny them the ability, through adequate education and training and decent health care and nutrition, to sustain, when they grow up, an economy and a democracy that both are strong enough to pay off the debts (or at least pay interest on the debt) and to support themselves.

That is why we are opposing this Balanced Budget Amendment. We oppose tinkering with the Constitution in this way. We do not think the Constitution should be played with unless every other avenue is foreclosed.

But we are not here as constitutional experts. We are here as advocates for children. And the more fundamental reason we oppose this Amendment is because it is America's children and families who will take a double hit under this Balanced Budget Amendment.

Given firm pledges by congressional leaders in recent months to put defense and social security and tax increases off the table, to make no cuts in defense or social security and no tax increases, and given the pledges to cut taxes in the neighborhood of $100 billion a year in the out years, the result of this mix of proposals with a balanced budget amendment is that a vastly disproportionate share of the pain falls on children and families. In effect, the Amendment would permanently lock in a fiscal,

tax and spending regime that will do considerable damage to children and, therefore, the Nation.

We have done a study which we presented to the Committee today that shows that when these tax, defense and social security assumptions are made, the entire remainder of the government has to be cut, on average, 30 percent.

Of course, the average will not be applied across the board. Some programs are likely to be cut less. Programs with powerful constituencies or simply untouchable programs like Medicare, veterans benefits, Supreme Court justices' salaries, whatever, will be cut not at all or much less than 30 percent. So the remaining programs are likely to be cut even more than 30 percent, in the neighborhood of 40, 50 or 60 percent.

But just taking a 30 percent cut, that means that in a typical year, when the Balanced Budget Amendment takes effect, 6.6 million fewer children will have Medicaid. Five million children will lose child support enforcement services. Their cases will be dropped. A quarter of a million children will not have Head Start. Two million children will lose remedial education services. Two million infants and pregnant women will lose nutritional and prenatal care under the WIC program.

I could go on and on, but these massive and indiscriminate cuts will simply have a devastating effect on our children and the Nation's future and the ability of our children as adults to pay off the debt that we have accumulated for them. These children, of course, are not the people who amassed this debt in the 1970s and 1980s and the 1990s, and they are not the ones that should have to suffer this double hit.

This problem is exacerbated by the three-fifths rule. The three-fifths rule would further guarantee a downward spiral of resources that the government needs to meet the needs of middle class and poor Americans. Taxes that will be cut today by majority vote could not be restored the following year or the following decade absent a super-majority.

As you know, Federal taxes as a percent of GNP have been relatively constant in recent decades, but the three-fifths rule would create a tremendous downward spiral in Federal taxes, leading to cuts for children, leading to bigger deficits and leading to huge pressures on the states, which would lose hundreds of billions of dollars in Federal support and, in turn, would have to raise their own taxes.

Ultimately, the burden of all of this mix of damage caused by the Amendment would fall on our children, as I have discussed, as well as creating problems of unprecedented magnitude for the states and localities.

SUBMISSIONS FOR THE RECORD

PREPARED STATEMENT OF REPRESENTATIVE JOHN L. MICA

In the 103rd Congress, I had the opportunity and responsibility to serve as the Freshman Coordinator of the Balanced Budget Amendment effort. The question then was whether or not we could adopt any bill to balance the budget. Because of the politics and political games played then we failed in our effort.

Because of both the mandate and changes resulting from last November's election, the circumstances we find ourselves in today have dramatically altered the terms of the debate.

Today, the question before us is not whether we will have a balanced budget amendment to the constitution, the question is which of the two proposals will be adopted.

As we in the Congress consider the two choices before us it is critical that we do not ignore both the message and the mandate of the people. Few issues in contemporary history have dominated the overwhelming opinion of Americans more than their desire for Congress to: (1) pass a balanced budget amendment and (2) cut taxes and reduce the size and scope of our federal government.

I submit to your that no better measure exists for the near or long term to accomplish those two objectives sought by our electorate than adoption of the Barton Amendment.

As we choose the best language and terms for enacting a balanced budget amendment we must not make an error. We must not enact a measure that fails to accomplish our original intention to: (1) balance the budget and (2) reduce taxes and government spending.

Only by requiring a 3/5ths vote to increase taxes can we accomplish the task and ensure the net results we intended.

If we are going to amend this document that has served us so well for so long, we must incorporate protections that will transcend this generation. How sad it would be in the year 2002 to look back on 1995 and say "if only they had acted responsibly." How sad it would be in 2002 to read through the testimony of this debate and regret that this

Congress did not finish the job. How sad it would be in the year 2002 to refer to our balanced budget amendment in the terms we now regard Gramm-Rudman-Hollings and the failed attempts by Presidents Bush and Clinton to bring our financial house in order.

So hopefully today we can learn from history. We can learn from the clear message of November. How interesting it is that the people, long before those in Washington, understood both the problem and the solution. Even those who are not schooled in finance and politics have recognized the need to adopt a strong, tough, complete measure.

I submit to you that the Barton Amendment is our best choice to meet those objectives. I submit to you that we must not ignore this opportunity in the history of our nation to reset our financial course and ensure fiscal responsibility for future generations.

If we adopt the Barton Amendment, I know we have a much better chance of having Americans in 2002 look back on 1995 and say "those in Congress did the right thing."

PREPARED STATEMENT OF REPRESENTATIVE TOBY ROTH

Mr. Chairman and members of the Committee:

Thank you for the opportunity to present testimony today on the importance of the balanced budget amendment. I commend you for holding these hearings on this critical issue.

Thomas Jefferson anticipated the very problem we are addressing today when he said: "the question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government."

Jefferson was right to condemn the irresponsible practice of passing on debt and fiscal misery to our country's future generations. I would venture to say that Jefferson would be appalled today by the spectacle of a Congress chronically unable to balance its budget.

Our nation has amassed a 4.8 trillion dollar debt because Congress has not had the will to cut spending. No family or household in America can spend more than it has, yet the federal government has run huge budget deficits every year since 1969 instead of making tough decisions about government spending. No father or mother can simply decide to ignore the bottom line and spend their hard-earned money recklessly. Like almost everybody else, American families and businesses are held accountable for the spending decisions they make. They live by the hard truth we should all follow: if they do not have the money, they do not have the money, they do not spend the money. It is as simple as that.

It is time we return to that notion of spending accountability. It is time for Congress to act like responsible Americans do all across this country and end the pattern of spending and borrowing this institution has tolerated for too long.

The balanced budget amendment is the instrument we need to put Congress' feet to the fire. In the past, we have passed a multitude of budget laws that Congress was able to routinely waive or ignore. In the past fifteen years, Congress has enacted at least five statutes that promised to balance the budget over time. Not a single one has succeeded.

This week, we will vote on legislation that Congress would be unable to ignore. The balanced budget amendment will ensure that next year Congress must do what it has not done in over 26 years: pass a balanced budget.

We simply cannot afford to wait one minute longer. It took America more than 200 years to accumulate its first trillion dollars of debt. The

budgets for the last three fiscal years alone increased the national debt another trillion dollars.

And our national debt is getting bigger by the hour. By this time tomorrow, it will be nearly a billion dollars more that it is now. Government spending is completely out of control. The federal government has not ended a fiscal year in surplus in almost a quarter-century. For the first time in our nation's history, there are more Americans working for government than in manufacturing.

Entire generations of Americans stand to suffer if we allow this to continue. The publicly-held federal debt now amounts to more than $19,120 for every man, woman and child in America. Fifteen cents out every dollar the federal government spends goes to pay the interest on the federal debt. We spend $816 million a day on those interest payments.

The debt is a double-edged sword. In addition to drawing away scarce resources on debt service payments, it also has a drag effect on the economy. It crowds out capital and inflates interest rates, artificially increasing the cost of borrowing for business purposes. In this way, the debt stifles venture capital and investment for the future. In fact, the drain on national savings caused by budget deficits during the decade of the 1980's resulted in a loss of five percent growth in our national income. Roughly three and a quarter million jobs were lost in that decade alone as a direct result of chronic, unbalanced budgets.

We must balance the budget now and attack the problem of the national debt before we further mortgage our children's future. Congress can simply no longer live beyond its means, and the balanced budget amendment will force this institution to be responsible and accountable in their spending.

A balanced budget amendment alone will not give Congress fiscal discipline. We must also make sure that Congress be hindered from balancing the budget by raising taxes. Tax increases have never been the solution to reducing the budget deficit. Instead, they have fed Congress' appetite for greater spending, resulting in ever higher deficits.

The Balanced Budget Amendment we must pass must include a tax limitation provision. Only by requiring a three-fifths supermajority to raise taxes and the debt limit will we force Congress to make the tough decisions to cut government spending. We must make taking the easy way out -- cut spending a little, raise taxes a lot -- hard for Congress. Only then will we have fulfilled our mandate to bring responsibility back to the budget process.

There are those who would argue that we cannot balance the federal budget under these conditions. They are wrong. If every American family can manage to balance its budget, then the Congress of the United States can learn to as well. If 49 of the 50 states manage to operate under balanced budget requirements, then we in Congress can learn to follow the example of state legislators back home.

In fact, some of us have already balanced the budget. Last year, I joined Congressman Solomon and the House Balanced Budget Task Force in drafting a budget that would eliminate the deficit within five years. Our budget, with over 500 specific spending cuts slashing almost $700 billion in federal spending, managed to balance the budget without reducing Social Security, cutting earned veterans' benefits, gutting defense, or raising taxes. These exceptions are important: the budget cannot and should not be balanced on the backs of Social Security recipients. Instead, we eliminated 150 government programs, privatized 25 government agencies and consolidated 35 government functions.

We were successful: our budget represented the largest and most specific deficit-cutting proposal ever considered by the House of Representatives, and the only one that ever actually resulted in a balanced budget. The Solomon budget is proof that balanced budgets are possible. All that is lacking is the political will and courage to restrain spending. The balanced budget amendment will give Congress that will because the American people demand it.

In a few days, we will have an historic opportunity to end a quarter-century of budget deficits. When the Balanced Budget Amendment comes up for a vote, this Congress will be at a crossroads. We can either pass legislation to force Congress to act as fiscally responsible as every household in America. Or we can continue to leave a bleak legacy of debt and looming bankruptcy to our children and grandchildren. I am confident that Congress will make the right choice -- and pass a tax limitation, balanced budget amendment.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF REPRESENTATIVE MARTIN OLAV SABO

Today you are meeting to discuss proposals to add a balanced budget amendment to the constitution and I thank you fro the opportunity to discuss this with you. I oppose putting this type of requirement in the Constitution and I would like to tell you why.

The Constitution did not create our budget problems and changing it will not solve them. Rather -- solving our budget problems will require an exercise of political will which is not dependent of the Constitution and cannot be engendered by the Constitution. The Constitution is our most valuable governing document and it should not be altered without extreme care.

I believe there are three very fundamental problems with putting a balanced budget requirement in the United States Constitution. My first objection concerns the manner in which this addition would change the nature of our Constitution. The second involves the change in the balance of powers between the three branches of government which I believe would result from this type of constitutional requirement. And, my third objection relates to the change in the balance of power within the legislative branch under some of the proposals.

I. THE BALANCED BUDGET AMENDMENT IS FUNDAMENTALLY DIFFERENT FROM EXISTING CONSTITUTIONAL PROVISIONS.

The Constitution is about fundamental rights and basic limits on the power of government. The balanced budget amendment is essentially different from the other limits on government powers found in the Constitution. The existing limits tend to be commands ordering some branch of government not to do something -- for example, not to pass laws abridging freedom of speech. This proposal, however, seeks to command Congress and the President to do something very specific each year, namely to enact a package of spending and taxing legislation that balances the budget.

I believe it will either prove to be an unenforceable promise, or its enforcement will shift unprecedented budgetary powers to the courts and the President. Adding an unenforceable promise to the Constitution could undermine respect for the Constitution itself. On the other hand, making it enforceable creates a new set of problems, which brings us to my second objection.

II. ITS ENFORCEMENT WILL DRAMATICALLY ALTER THE BALANCE OF POWERS AMONG THE THREE BRANCHES OF GOVERNMENT

Enforcement of this type of amendment could require an n exercise of unprecedented powers by the President and or the federal judiciary. One concern is that a President could assert broad powers to withhold spending or modify programs and benefits using the balanced budget amendment as justification. This could occur even if Congress, acting in good faith, had passed a balanced budget but the President did not believe it was balanced. This shift of power is in direct contradiction to the basic plan of the Constitution which assigns primary power over the purse to the people's elected representatives in Congress.

Secondly, I believe a balanced budget amendment could give rise to a flood of litigation. I realize that there are some proposals that try to include language limiting the power of the courts, but I am not sure that is possible in this type of situation. And, if the courts do have to enter this area, they could find themselves embroiled in matters of spending and taxes that have always been the province of elected branches of government. This is a profound change in our system of governance.

III. SEVERAL OF THE PROPOSALS WOULD RESULT IN A SIGNIFICANT CHANGE IN THE INTERNAL BALANCE OF POWER WITHIN THE LEGISLATIVE BRANCH OF GOVERNMENT

In some of the proposals being discussed, the amendment would greatly increase the power of minority blocs within the House and Senate. This is because they require a super-majority to waive various requirements. Consequently, in any year when Congress and the President are unable to completely eliminate a deficit, a minority of either chamber would be able to block budget-related legislation. This is contrary to the basic constitutional principle of majority rule, and could lead to brinkmanship and gridlock.

The Constitution requires a super-majority in both the House and Senate in just three situations: approving a constitutional amendment, overriding a Presidential veto, and declaring the President unable to perform his duties. All three situations involve action by Congress without the President's participation. The requirement for a super-majority of both Houses and the President's signature is without precedent in the Constitution.

IV. CONCLUSION

In addition to the basic philosophical problem I have with amending the Constitution for the purpose, I have several practical concerns. In my judgment, two of these concerns are very important.

First, national governments have special roles to play, including economic stabilization and responding to emergencies at home and threats from abroad. All of these functions require some flexibility in budgeting. This is inconsistent with a rigid balanced budget requirement in the Constitution.

My second concern involves the way we finance government debt. Interest costs are the only totally uncontrollable costs in our budget. This year they will account for 14 percent of our total spending. A requirement to balance the budget every year could create real pressures to finance all government debt over the longest possible terms. This could have the effect of making government much more costly than it already is.

I fear that we may do serious, although unintended, damage to our finances and to the institutions of democracy if we add this to our Constitution. In flirting with this amendment, we are indeed "playing with fire."

PREPARED STATEMENT OF REPRESENTATIVE MARK K. SOUDER

Mr. Chairman, Thank you for the opportunity to express my strong support for a balanced budget amendment to the constitution. I was elected by the people of Northeast Indiana on a mandate to restore fiscal sanity to the Federal budget process. I signed the Contract With America to provide a blueprint for getting this job done. The voters entrusted me to uphold the terms of this agreement, and it is my moral and civic obligation to do so. Given my contractual commitment to the people who elected me, I urge this committee and this Congress to support a strong balanced budget amendment that contains a requirement for a 3/5th vote to raise taxes.

As I traveled throughout my district in 1994, I heard time and again that the government was making it tougher and tougher for the average family to get by. The people of my district want to see fundamental change in the way Congress does business. They are tired of sending more of their hard-earned dollars to Washington, only to be wasted on bureaucratic inefficiency and unnecessary spending. It is time we took responsibility for our actions and stopped passing the debt on to future generations. If I ran my general store the way Congress manages its budget, I would find myself quickly out of business.

People are fed up with a status quo Congress. The Tax Limitation Amendment contained in the Contract With America will protect the American taxpayer. By requiring a supermajority to raise taxes, it will provide a mechanism that prevents legislators from addressing budgetary constraints with tax increases. For too many years we have allowed Congress to take the easy way out. Entitlement spending is viewed as a sacred cow; discretionary spending, we are told, has been cut to the bone. Congress time and again has chosen the route of raising taxes, rather than making tough cuts.

Currently, nine states have a supermajority requirement for tax increases. Not only have taxes decreased in these states, but their economies have thrived and spending has not skyrocketed. These experiments clearly prove that greater tax and spending discipline will benefit our economy and our nation.

In addition, four out of the last five major tax increases - including the 1993 Clinton tax increases - did not receive the support of sixty percent of both houses. These tax increases would never have happened if a balanced budget amendment with a tax limitation were in place.

The 3/5ths supermajority requirement has the support of virtually every Republican in the house. We are united on this issue and stand ready to pass a measure with teeth that will protect the American taxpayer. However, it is clear that we must have the support of Members from the other side of the aisle to make a balanced budget with tax limitation a reality. On this issue, a clear philosophical line in the sand has been drawn. It is Republicans who believe there is a limit to the amount congress can spend. It is Republicans who believe there is a limit to how much congress can tax. It is only Republicans who seek real reform by fundamentally changing the ground rules of the game.

Congress has clearly spent its full measure of trust. We must have a Constitutional guarantee that we will balance the budget without further burdening the American family with oppressive taxes. It is for this reason that I came to this Congress, and I feel honored that the people of my district have entrusted this responsibility to me. I urge this Congress to exercise the will of the American people and pass a balanced budget amendment with a requirement for a supermajority to raise taxes. Thank you.

Prepared Statement of
Representative Pete Stark

This, the second JEC hearing on the Balanced Budget Amendment, will allow us to examine additional reasons why the amendment should not be adopted. Last Friday we heard telling social and economic reasons against the amendment. Today we will hear more solid arguments against it.

Congressman Sabo has been Chairman and now is Ranking Members of the House Budget Committee. He will explain how passage of the Balanced Budget Amendment will have damaging effects not only to the budget but also to the budget-making process.

Assistant Attorney General Dellinger had been an expert witness on the issue of the Balanced Budget Amendment before coming into government. His testimony cites a number of Republican as well as Democratic legal scholars who oppose the amendment for compelling legal reasons. Enforcement of the amendment would present a legal nightmare.

Finally, on the "grassroots panel," (Common Cause President Fred Wertheimer) / (Jim Weill of the Children's Defense Fund) urge(s) us to make the hard decisions to reduce the deficit rather than engage in the posturing and confusion that would result from amending the Constitution.

I look forward to hearing today's witnesses.

Prepared Statement of Senator Connie Mack

As we take up where we left off on Friday, I think there are a couple of things we can all agree on based on the previous hearing.

First, the budget deficit is out of control. It has grown so large, that unless we take action now, it will threaten the health of the American economy for as long as anyone cares to predict.

Second, we have seen no evidence of the will required to solve this problem through the political process as it now exists. It has been 25 years since Congress balanced a budget, and there is no end in sight.

Although some have called the Balanced Budget Amendment nothing more than a trick designed to fool the American people into believing we are serious about solving the deficit problem, that kind of cynicism has no place in Congress. November brought a new way of doing business: we are not interested in tricks, we're looking for solutions.

Passing a Balanced Budget Amendment is critical to America's future. We know what we have to do, but we have to be willing to put aside our political differences to do it.

One more thought I brought away from Friday's hearing: a strong tax limitation provision makes a vital amendment even better.

We made some important progress last week ... let's keep going.

Mr. Chairman and Members of the Committee. Thank you for inviting me to address this hearing of the Joint Economic Committee regarding the Balanced Budget Constitutional Amendment, House Joint Resolution 1 ("H.J. Res. 1".) I am a partner in the Washington law firm of Shaw, Pittman, Potts & Trowbridge, and my practice is concentrated heavily in the area of constitutional litigation. I have represented a variety of state and local governmental bodies and officials on a range of constitutional issues, including issues relating to the constitutional limits on federal regulatory power. From 1985 through 1988, I served in the United States Department of Justice as the Assistant Attorney General for the Office of Legal Counsel. During that time I also chaired President Reagan's Working Group on Federalism, which advised the President and cabinet members on issues relating to federal-state relations and prepared President Reagan's Executive Order on Federalism (Executive Order No. 12612). I am currently serving as Co-Chairman of Governor George Allen's Advisory Council on Self-Determination and Federalism.

In light of my background and interest in the constitutional principles of federalism, I have been asked to address in my testimony the implications for the States of passage and ratification of H.J. Res. 1. As I shall explain in a moment, I believe that the absence of any specific provision protecting the States from future unfunded mandates is a serious deficiency of H.J. Res. 1 and its principle competing proposals. The States

are already groaning under the costs of implementing federal policies, and current proposals to provide statutory safeguards against future unfunded intergovernmental mandates, while well intended, will be entirely inadequate to restrain future Congresses from balancing the federal budget on the backs of the States and state taxpayers. Accordingly, I believe that ratification of a balanced budget amendment by the necessary three-fourths of the States is exceedingly unlikely unless a specific constitutional provision is crafted to protect them from added financial responsibility for implementing federal policies.

I hasten to make clear that I raise this concern as a strong supporter of a balanced budget amendment. I fear, however, that the effort will be in vain, and this historic opportunity to avert future financial calamity will be lost, if the amendment sent to the States for ratification asks them to accept on faith that Congress will halt, or at least curtail, its use of unfunded intergovernmental mandates, notwithstanding that the requirements of a balanced budget amendment would increase exponentially the incentives for Congress to shift federal financial burdens to the States. Before turning to the uncompensated mandates issue, I should like to address briefly some of the constitutional objections that have been recently made by opponents of a balanced budget amendment.

The proposed balanced budget amendment contained in H.J. Res. 1 is born of a broad-based consensus of the American people that the federal government has grown not only beyond its constitutional authority and competence, but beyond the ability of the taxpayers -- both current and future -- to support it. The current generation of taxpayers is simply tapped out: it takes the average American family until May of each year just to pay its taxes. Future generations of taxpayers have already been saddled by Congress with the responsibility for paying a national debt approaching $5 trillion dollars, and most current projections of future deficits under existing fiscal policies make that figure look modest. H.J. Res. 1 seeks to restrain the growth in federal taxation and borrowing, and thus to restrain the growth of the federal government, by requiring that an increase in either taxes or borrowings be approved by three-fifths of the whole number of each House of Congress. The proposed amendment would not prohibit an increase in either taxes or borrowings; it would merely require that an increase in either be supported by a broader consensus in Congress than is required for other types of legislation. In so doing, the proposed amendment would create a constitutional bias against increasing taxes or borrowings to eliminate any excess of outlays over receipts, and in favor of reducing spending or shifting the costs of federal policies to the States or to private actors. I shall return to this latter point in a few moments.

Thus, H.J. Res. 1 would add to the existing fiscal provisions of the Constitution another rule governing federal fiscal decisions. Which brings me to a frequently voiced objection to a balanced budget amendment. Many opponents of such a measure have argued that the "majestic" protections of our Constitution should not be "cluttered" with provisions relating to fiscal policy. Just yesterday, Hobart Rowan wrote in The Washington Post that a balanced budget amendment "would denigrate the document that deals with the big issues -- individual rights, the system of separation of powers, the ultimate guarantor of our system of liberties in effect since 1776."

I yield to no one in my reverence for the Constitution, especially the provisions of the Bill of Rights, including the Second and Tenth Amendments. But the Constitution is not limited to the Bill of Rights, and many of its provisions restrict Congress in the area of fiscal policy.

- Article I, Section 7 provides that all bills for raising revenue must originate in the House of Representatives.

- Article I, Section 8 empowers Congress to lay and collect uniform taxes, duties, and excises and to pay the debts of the United States. It also authorizes Congress to borrow money on the credit of the United

States and to regulate the value of the currency. Section 8 also requires that an appropriation of money for the support of the military shall not exceed two years.

- Article I, Section 9 prohibits the taxation of articles exported from any State and forbids any tax law that prefers the ports of one State over those of another. Section 9 contains even narrower fiscal provisions, requiring that "[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriation made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." Finally, Section 9 originally prohibited any unapportioned "Capitation or other direct, Tax" and expressly authorized the levying of a tax on the importation of slaves. These provisions, of course, were repealed by the Sixteenth and Thirteenth Amendments, respectively.

- Article I, Section 10 prohibits States, absent congressional consent, from laying "any Imposts or Duties on Imports or Exports" and "any Duty of Tonnage."

- Article VI expressly confirms the validity of "All Debts contracted and Engagements entered into" before adoption of the Constitution.

- The Fourteenth Amendment confirms the validity of the public debt of the United States, but prohibits the payment of any debt or obligation incurred in aid of the Confederacy in the Civil War.

- The Sixteenth Amendment empowers Congress to levy taxes on incomes.

The point is that the Constitution contains a host of fiscal provisions far narrower and less important than the restrictions that would be added under H.J. Res. 1. If the federal government's budget deficits and accumulated debt load has reached crisis dimensions (as many people believe it has), and if all statutory measures designed to restrain federal spending have proved ineffective (as they plainly have), then a remedy of constitutional dimension is plainly warranted, and the people are entitled to insist on it.

Several constitutional scholars, including Assistant Attorney General Walter Dellinger and Mr. Alan Morrison, have also voiced concerns relating to judicial enforcement of a balanced budget amendment. Apparently the question of judicial

enforceability of the amendment is a no-win issue, if these scholars are correct. On one hand, judicial enforcement of the amendment's requirements is unacceptable, they say, because countless lawsuits would be generated, the courts would be called upon to decide difficult budgetary issues that are inappropriate subjects for judicial resolution, and existing constitutional arrangements governing the distribution of federal powers would be disrupted.[1] On the other hand, the absence of judicial enforcement of the amendment would be equally unacceptable, for it would render the measure "an empty promise," likely to be "routinely violated" by the Congress.[2] Thus, according to Assistant Attorney Dellinger, a balanced budget amendment to the Constitution is doomed to fail if it is not judicially enforceable, and is doomed to fail if it is. Mr. Morrison agrees that both alternatives concerning judicial enforcement are unacceptable, but argues nonetheless that "the sponsors of [the balanced budget] amendment should include a specific provision in the amendment itself, stating precisely the role, if any, that

[1] See Testimony and Prepared Statement of Walter Dellinger, Assistant Attorney General, Office of Legal Counsel, before the Subcommittee on the Constitution of the Committee on the Judiciary of the U.S. House of Representatives, concerning the Balanced Budget Amendment (January 10, 1995) (Dellinger testimony); Testimony and Prepared Statement of Alan B. Morrison before the Committee on the Judiciary of the U.S. House of Representatives, concerning the Balanced Budget Amendment (January 10, 1995) (Morrison testimony).

[2] Dellinger Testimony at 12; see Morrison Testimony at 10.

they envision for the courts."[3] I do not believe that the issue is quite so complicated.

Contrary to Mr. Morrison's suggestion, the balanced budget amendment need not contain an express provision concerning judicial review. Indeed, no other provision of the Constitution, including the existing amendments, contains a specific judicial enforcement clause like the one urged by Mr. Morrison. Rather, judicial review and enforcement of the Constitution is provided for under Article III, Section 2, which extends the federal judicial power "to all Cases, in Law and Equity, arising under this Constitution." Cases arising under the balanced budget amendment would likewise fall within the judicial power of the federal courts and would be subject to all of the constitutional limitations on that power, such as the jurisdictional doctrines of standing and political question. Former Attorney General William Barr testified recently (January 9) on this subject before the House Judiciary Committee, concluding that in light of the political question and standing doctrines, judicial enforcement of the balanced budget amendment would "most likely be reserved to address serious and clearcut violations." I think Mr. Barr's analysis of this issue is sound. I do not recoil from the notion that a serious and clearcut violation of the balanced budget amendment would be reviewable by the federal courts. To the contrary, I recoil from the notion that it would not.

[3] Morrison Testimony at 5.

Assistant Attorney General Dellinger likens the balanced budget amendment to hypothetical amendments declaring that the air shall be clean, the streets shall be free of drugs, and the people shall be free from poverty. But the balanced budget amendment doesn't simply declare that the federal budget shall be in balance. It directs federal lawmakers that they may not raise taxes or increase borrowings unless the reasons for doing so are good enough to convince 60% of the Members of both Houses of Congress and the President. All federal officials, politicians no less than judges, would be oath-bound to obey the amendment's requirements, and I believe that they would strive in good faith to do so. Accordingly, I do not share Mr. Dellinger's apprehension that the amendment, even if judicially unenforceable, would lead to "routine" and "countless constitutional violations" by federal lawmakers sworn to uphold the amendment.

Before leaving the subject of enforcement of the balanced budget amendment, I should like to suggest that Congress consider deleting Section 8 of the proposed amendment. That provision states that "Congress shall enforce and implement this Article by appropriate legislation." With respect to the requirement that Congress "implement" the amendment by appropriate legislation, the provision is redundant to the amendment's own commands. Congress has no choice but to implement the amendment. No

existing constitutional restriction on Congress contains an express requirement that Congress "implement" the restriction.

The requirement in Section 8 that Congress "enforce" the amendment by appropriate legislation is incongruous with the amendment itself, which is a limitation on Congress' powers. Section 8 appears to be patterned after similar constitutional provisions granting Congress "power to enforce" the protections of the Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-Third, Twenty-Fourth, and Twenty-Sixth Amendments, all of which expressly and principally apply to the States. Since the restrictions of the balanced budget amendment would apply solely to Congress, it seems incongruous to grant Congress enforcement authority against itself. Moreover, Section 8 arguably implies that Congress' enforcement authority is exclusive, thus precluding judicial enforcement of the amendment. To eliminate any such inference, without causing harm to the purpose of the amendment, Section 8 should be deleted.

As I mentioned at the outset of my testimony, however, there is a more serious flaw in the design of H.J. Res. 1, a flaw that I fear will ultimately prove fatal to its ratification -- the absence of any provision protecting the States from future unfunded mandates. By now, the crushing financial burdens on state and local governments of unfunded federal mandates are no doubt well known to every Member of Congress. Still, it is

helpful to review some of the data reflecting Congress' increasing reliance on unfunded federal mandates to shift the costs of implementing federal policies onto the States.

A recent report by a Task Force of the U.S. Advisory Commission on Intergovernmental Relations ("ACIR") traces the history of unfunded intergovernmental mandates. Congress enacted only one substantial unfunded statutory mandate requiring state and local compliance in 1931, one in 1940, none in the 1950s, nine in the 1960s, 25 in the 1970s, and 27 in the 1980s. And the increase during the 1980s in major mandates on the States occurred in a period of overall decline in the amount of substantive legislation enacted by Congress. Indeed, as the ACIR notes, the 27 intergovernmental mandates passed in the 1980s "represented a far larger proportion of a diminished substantive legislative agenda."[4]

Not only are the mandates enacted in recent years more numerous; by ACIR's reckoning, they are also more coercive. Sixty-Eight percent of the new mandates employ what ACIR calls either direct or crossover sanctions; the former are legal requirements imposed by the federal government directly on state and local governments, enforceable by civil or criminal sanctions, while crossover sanctions are grant conditions that

[4] "Federal Regulation of State and Local Governments: The Mixed Record of the 1980s," at 54 (ACIR, 1993).

impose federal fiscal sanctions in one program area for failure to comply with federal requirements under another, separately authorized program. Only 28 percent of earlier intergovernmental mandates employ these coercive measures.

The costs of complying with federal intergovernmental mandates are enormous and are rising steeply. The U.S. Conference of Mayors has estimated that unfunded federal mandates consume almost 12% of all locally raised revenues. The Conference of Mayors has also estimated that meeting the requirements of federal mandates will cost cities $54 billion over the next five years. One frequently cited study reports that Columbus, Ohio, a city of under 650,000 people, is faced with costs of $1 billion to comply with the Clean Water Act and the Safe Drinking Water Act. The Columbus Health Commission has estimated that compliance will cost each household an additional $685 each year throughout the 1990s. Mayor Daly of Chicago has said that "his city's cost of complying with federal mandates and regulations is more than $160 Million a year."

One final point concerning the unfunded federal mandates enacted during the 1980s: fully 70 percent of these recent mandates were enacted after 1985, the year in which the Supreme Court decided Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985). Garcia held in effect that the federal judiciary would no longer entertain constitutional

federalism challenges to congressional exercises of the commerce power. The acceleration of federal unfunded mandates on the States after Garcia goes far in rebutting the key factual premise of Garcia -- that the "political process ensures that laws that unduly burden the States will not be promulgated." Id. at 556. The Garcia Court's abandonment of its adjudicatory role in federalism cases was starkly inconsistent with the intentions of the Framers of the Constitution. In Federalist No. 39, James Madison made clear that Supreme Court adjudication of disputes concerning the respective sovereign powers of the state and federal governments was "clearly essential to prevent an appeal to the sword and a dissolution of the compact."

The Supreme Court's decision in Garcia, coupled with the crushing financial burdens of complying with and implementing federal intergovernmental mandates enacted during the last decade, has spawned a growing movement among the States for constitutional reform of the federal-state relationship. One constitutional proposal that is gaining momentum would authorize the States effectively to repeal objectionable federal laws or regulations upon the enactment by two-thirds of the state legislatures of "resolutions of disapproval."

As currently formulated, H.J. Res. 1 poses a clear and present danger to the States. If it is ratified, future Congresses will not be able to fund federal programs and policies

through increased taxes or borrowings unless they can muster the support of 60% of the Members of both Houses. The primary alternative methods for Congress to fund new (or expanded) federal policies or programs will be to reduce its spending in other areas or to shift the cost of implementing the federal policy to the States through an unfunded federal mandate. Given Congress' respective track records in these areas, it is unrealistic to expect the States to embrace and ratify a balanced budget amendment that is certain to deepen, rather than relieve, their current fiscal woes. While the States are no doubt willing to do their fair share in the war against the burgeoning federal deficit and the fiscal catastrophe that it portends, I do not believe that they will agree to be kamikaze pilots.

Nor are the States likely to be comforted by current statutory proposals for reforming congressional procedures for enacting intergovernmental mandates. Even if the suggested procedural reforms are followed by future Congresses, they do not prohibit the enactment of unfunded federal mandates. And the statutory procedures are not judicially enforceable in any event; Congress may ignore them with impunity.

In short, a balanced budget amendment should not, and almost certainly will not, be ratified without an express provision protecting state and local governments from unfunded federal mandates. A number of alternative provisions have been suggested

to accomplish this objective, ranging from outright bans on any intergovernmental mandate, funded or not, to requirements that intergovernmental mandates be accompanied by federal compensation equal to the necessary additional costs of implementing the mandate, to requirements that intergovernmental mandates be supported by two-thirds of the Members of both Houses of Congress.

While each of these proposals has its own strengths and weaknesses, I favor a simple prohibition on uncompensated intergovernmental mandates. For example: "The Government of the United States shall not require, directly or indirectly, that States or local governments engage in additional or expanded activities without compensation equal to the necessary additional costs." In any event, some form of constitutional protection should be included in the balanced budget amendment if its ratification by three-fourths of the States is genuinely desired.

Again, Mr. Chairman, I appreciate this opportunity to address some of the issues raised by proposals for a balanced budget amendment. I would be happy to attempt to answer any questions that you or other Members of the Committee may have.

Statement of
Walter Dellinger
Assistant Attorney General
Office of Legal Counsel
Department of Justice

before the
United States Congress
Joint Economic Committee

January 23, 1995

THE BALANCED BUDGET AMENDMENT

Chairman Mack, Ranking Minority Member Stark, and Members of the Committee --

I appreciate this opportunity to present the views of the Department of Justice on proposals to amend the Constitution to require a balanced budget, including Senate Joint Resolution 1 and House Joint Resolution 1. For the most part, my comments will reflect the concerns that I raised on behalf of the Administration in testimony last year before the Senate Appropriations Committee[1] and in testimony and statements this year before the Senate Judiciary Committee[2] and the Subcommittee on the Constitution of the House Judiciary Committee.[3] I will also respond to some of the comments and suggestions made during this year's hearings in both the House and the Senate.

As I indicated in my earlier testimony and statements, the primary concern of the Department of Justice is that the proposed amendments fail to address the critical question of how they will be enforced. Were a balanced budget amendment to be enforced by the courts, it would restructure the balance of power between the branches of government and could empower unelected judges to raise taxes or cut spending -- fundamental policy

[1] Balanced Budget Amendment -- S.J. Res. 41: Hearings Before the Senate Comm. on Appropriations, 103d Cong., 2d Sess. 131-48 (1994) (testimony and prepared statement of Assistant Attorney General Walter Dellinger); see also id. at 27-38 (1994) (testimony and prepared statement of Attorney General Janet Reno). The version of the amendment that was at issue in the 1994 Senate Hearings, S.J. Res. 41 (as reported by the Senate Judiciary Committee), was identical, in all respects except the date on which it would take effect, to this year's S.J. Res. 1. S.J. Res. 1 and H.J. Res. 1 are described in Section 1 of this Statement.

[2] Balanced Budget Amendment -- S.J. Res. 1: Hearing Before the Senate Comm. on the Judiciary, 104th Cong., 1st Sess. (Jan. 5, 1995) (testimony and prepared statement of Assistant Attorney General Walter Dellinger).

[3] Balanced Budget Amendment -- H.J. Res. 1: Hearings Before the Subcomm. on the Constitution of the House Comm. on the Judiciary, 104th Cong., 1st Sess. (Jan. 11, 1995) (prepared statement of Assistant Attorney General Walter Dellinger).

decisions that judges are ill-equipped to make. If the amendment proves unenforceable, it would diminish respect for the Constitution and for the rule of law.

The leading proposed balanced budget amendments all leave unanswered the central question of who will enforce the amendment -- the courts or the President -- or whether it is intended to be enforceable at all. Some versions of a balanced budget amendment have made efforts to restrict the authority of the courts to order remedies for violations of the amendment. However, even these versions have failed to address whether and to what extent the President would have authority to enforce the amendment through impoundment or other means, apparently deferring this question for judicial resolution.[4]

Before resorting to the drastic step of amending the Constitution, every other reasonable alternative should be explored. In addition to aggressive budget cutting measures,[5] such alternatives include line item veto legislation that has been introduced in this

[4] In addition to the versions being debated in the House and in the Senate this year, a number of balanced budget amendment proposals have been considered by the Congress during the last 20 years. Useful discussions can be found not only in the most recent hearings, but also in: Balanced Budget Amendment to the Constitution: Hearing Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 103d Cong. 1st Sess. (1993); Constitutional Amendment to Balance the Budget: Hearings Before the Senate Comm. on the Budget, 102d Cong., 2d Sess. (1992); The Balanced Budget Amendment: Hearings Before the House Comm. on the Budget, 102d Cong., 2d Sess. (1992); Proposed Constitutional Amendments to Balance the Budget: Hearings Before the Subcomm. on Economic and Commercial Law of the House Comm. on the Judiciary, 101st Cong., 2d Sess. (1990); Balanced Budget Amendments: Hearing Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 101st Cong., 1st Sess. (1989); Balanced Budget Amendments: Hearing Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 100th Cong., 2d Sess. (1988); Proposed Balanced Budget Constitutional Amendments: Hearings Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary, 100th Cong., 1st Sess. (1987); Balanced Budget Constitutional Amendment: Hearing Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 99th Cong., 1st Sess. (1985); Proposed Balanced Budget/Tax Limitation Constitutional Amendment: Hearings Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 98th Cong. 1st and 2d Sess. (1983 and 1984); Constitutional Amendments Seeking to Balance the Budget and Limit Federal Spending: Hearings Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary, 97th Cong., 1st and 2d Sess. (1981 and 1982); Balanced Budget-Tax Limitation Constitutional Amendment: Hearings Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 97th Cong., 1st Sess. (1981); Balancing the Budget: Hearing Before the Subcomm. on the Constitution of the Senate Judiciary Comm., 97th Cong., 1st Sess. (1981); Constitutional Amendment to Balance the Federal Budget: Hearings Before the Senate Comm. on the Judiciary, 96th Cong., 2d Sess. (1980); Constitutional Amendments to Balance the Federal Budget: Hearings Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary, 96th Cong., 1st and 2d Sess. (1979 and 1980); Proposed Constitutional Amendment to Balance the Budget: Hearings Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 96th Cong., 1st Sess. (1979); Balancing the Budget: Hearing Before the Subcomm. on Constitutional Amendments of the Senate Comm. on the Judiciary, 94th Cong., 1st Sess. (1975).

[5] Under the Clinton Administration, the deficit is projected to decline for three consecutive years for the first time since President Truman was in office. The drop in the deficit over the last two years was the largest two-year drop in the history of the United States. The Fiscal Year 1994 deficit is more than $100 billion less than was projected prior to passage of President Clinton's economic plan.

session of Congress. President Clinton has long supported the line item veto, and the Administration has pledged to work with Congress towards the development of an effective line item veto measure that can promptly be put into place. The line item veto legislation currently pending before Congress would increase the government's ability to reduce the deficit; unlike the balanced budget amendment proposals, however, it would do so in a manner that would not disrupt the basic structure of our government.

I. The Leading Proposals

I will begin by briefly summarizing the two leading proposals that I have been advised are of particular interest to your committee, Senate Joint Resolution 1 and House Joint Resolution 1.

Senate Joint Resolution 1 would propose a constitutional amendment mandating that "[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote." S.J. Res. 1, § 1. In addition, it would require a three-fifths rollcall vote of the whole number of each House for any increase on the public debt, id. § 2; would require the President to submit a balanced budget prior to each fiscal year, id. § 3; and would require a majority rollcall vote of the whole number of each House for any bill to increase revenue, id. § 4. Congress would be allowed to waive these requirements "for any fiscal year in which a declaration of war is in effect . . . [or] for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by joint resolution . . . which becomes law." Id. § 5. Additional sections provide for implementing legislation; define receipts and outlays in broad general terms; and provide that the amendment shall take effect no earlier than 2002.

House Joint Resolution 1 would require Congress to "adopt a statement of receipts and outlays for [each] fiscal year in which total outlays are not greater than total receipts," unless three-fifths of the whole number of each House "provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject." H.J. Res. 1, § 1. Both Congress and the President would be required to "ensure that actual outlays do not exceed the outlays set forth in such statement," which may be amended by law, "provided that revised outlays are not greater than revised receipts." Id. In addition, the amendment would require a three-fifths vote of the whole number of each House for any bill to increase receipts, id. § 2, or to increase the debt held by the public, id. § 6; would require the President to submit a budget prior to each fiscal year "consistent with the provisions of this Article," id. § 3; and would require that all votes taken under the amendment be rollcall votes, id. § 7. Congress could waive these requirements "for any fiscal year in which a declaration of war is in effect" or "for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution adopted by the whole number of each House, which becomes law." Id. § 4. As with S.J. Res. 1, additional sections would provide for implementing legislation; define

receipts and outlays in broad general terms; and provide that the amendment shall take effect no earlier than 2002.[6]

While I have no doubt that you will wish to consider the relative merits of each of these provisions, I will not focus much further today on the differences between the two amendments. Rather, my comments will be directed to the fundamental problems stemming from the failure of either amendment to specify an enforcement mechanism.

II. How Would the Balanced Budget Amendment Be Enforced?

The aspect of the proposed balanced budget amendments that is of greatest concern to the Department of Justice is that they provide no enforcement mechanism and may lead to judicial involvement in the budgetary process.[7] The Senate proposal, for example, simply

[6] Although the core structure of the two provisions is quite similar, the House proposal does differ from the Senate proposal in some significant respects, only the first of which has been the subject of much debate thus far:

(1) H.J. Res. 1 would require that no bill to raise receipts may be passed except by three-fifths rollcall vote of the whole number of each House of Congress, rather than by majority rollcall vote of the whole number of each House of Congress.

(2) H.J. Res. 1 seems in more explicit terms than S.J. Res. 1 to contemplate granting impoundment authority to the President, as § 1 states that the President "shall ensure" that actual spending not exceed the outlays set forth in the budget.

(3) Even assuming that a balanced budget is passed, H.J. Res. 1 does not always require the Government to spend no more than it takes in. Rather, it requires Congress and the President to ensure that actual outlays do not exceed projected outlays. Accordingly, a deficit that results from overly optimistic projections of revenues would not violate the amendment.

(4) H.J. Res. 1 slightly expands the class of situations in which the provisions of the amendment could be waived, authorizing waiver for "an imminent and serious military threat" even when no actual hostilities are taking place.

(5) H.J. Res. 1 does not explicitly authorize Congress to rely on estimates in passing implementing legislation.

[7] For other expressions of concern about the enforceability of similar balanced budget amendment proposals, see, e.g., 1995 Senate Judiciary Committee Hearing (testimony and prepared statements of David Strauss, Professor of Law, University of Chicago and of Alan Morrison, Public Citizen Litigation Group; and prepared statement of Cass Sunstein, Professor of Law, University of Chicago); 1994 Senate Budget Committee Hearings 149-162 (testimony and prepared statement of Archibald Cox, Professor of Law, Harvard University); id. at 162-76 (testimony and prepared statement of former Attorney General Nicholas Katzenbach); id. at 177-93 (testimony and prepared statement of Kathleen Sullivan, Professor of Law, Stanford University); id. at 193-207 (testimony and prepared statement of Burke Marshall, Professor of Law, Yale University); id. at 289-95 (testimony and prepared statement of Norman Ornstein, American Enterprise Institute); 1990 House Judiciary Committee Hearings at 113 (statement of Professor Henry Monaghan, Professor of Constitutional Law,

declares that total outlays shall not exceed total expenditures, without explaining how this state of affairs shall come about. Mandating that Congress "shall adopt" a balanced budget will not assist Members of Congress to reach an agreement on how to balance the budget. While one Member of Congress might vote to cut military spending, another to reduce retirement or other entitlement benefits, and a third to raise taxes, each of these measures may fail to gain a majority in one or the other House of Congress. Nor could we be sure, if no majority could agree on a particular method of balancing the budget, that sixty percent of both Houses of Congress could agree on an unbalanced budget. The result would be unworkable in a way that other supermajority requirements are not: while a failure to override a veto or ratify a treaty simply leaves the status quo in place, no governmental action would be authorized without a budget.

Even if Congress is able to agree on a balanced budget, or a sixty-percent majority agrees to a particular unbalanced budget, the problems would not be over. If later in the fiscal year expenditures turn out to be greater than expected (perhaps because a recession increases claims on unemployment insurance), sixty percent of at least one House of the Congress may fail to agree on a resolution to exceed the spending limit, or a majority may fail to approve a change in the budget to accommodate the increase. In that situation, all members of Congress might be acting in good faith, and yet Congress would have failed to carry out its constitutional command under the amendment to ensure, in the case of S.J. Res. 1, that outlays do not exceed receipts; or, in the case of H.J. Res. 1, that actual outlays do not exceed those set forth in the budget resolution.

Should this occur, the President might well conclude that the constitutional command that "[t]otal outlays shall not exceed total receipts" -- to use the language of S.J. Res. 1 for a moment -- must take precedence over mere statutes, including appropriations bills, entitlement packages, and the Congressional Budget and Impoundment Control Act of 1974. Although the President might interpret that command to authorize him to impound funds,[8] nothing in the amendment guides the exercise of that power. For example, the proposal does not say whether the President may select particular areas of his choosing for impoundment.

Columbia University); Letter from Robert H. Bork to Thomas F. Foley (July 10, 1990), reprinted in Robert H. Bork, A Seasoned Argument, Wash. Post, June 10, 1992, at A23.

[8] The argument for Presidential action, such as impoundment, would be even stronger under H.J. Res. 1, which requires the President to "ensure" that actual outlays do not exceed those set forth in the budget resolution. However, because H.J. Res. 1 does not require that actual outlays not exceed actual revenues, any Presidential enforcement authority under H.J. Res. 1 would be limited to lowering spending, and would not include the authority to increase revenues, for example by imposing fees for the use of certain government services.

or whether certain areas -- such as Social Security and other entitlement programs -- would be beyond the purview of his impoundment authority.[9]

Because the amendment lacks any specific mechanism for achieving a balanced budget, this amendment, once part of the Constitution, may be read to authorize, or even to mandate, judicial involvement in the budgeting process. When confronted with litigants claiming to have been harmed by the government's failure to comply with the amendment, or by impoundment undertaken by the President to enforce the amendment, courts may well feel compelled to intervene. This would be a substantial distortion of our constitutional system. If some judicial or executive enforcement mechanism is not inferred, then the amendment would constitute an empty promise in the very charter of our government. Either of these alternatives would work a fundamental alteration in the nature of our constitutional system.

A. Judicial Enforcement

The proposal appears to contemplate a significant expansion of judicial authority: state and federal judges may be required to make fundamental decisions about taxing and spending in order to enforce the amendment. These are decisions that judges lack the institutional capacity to make in any remotely satisfactory manner.[10] As former Solicitor

[9] Attorney General William Barr has argued that S.J. Res. 1 does not provide the President with impoundment authority. 1995 Senate Judiciary Committee Hearings (testimony of Attorney General Barr) (preliminary transcript, at 194). He reasoned that there would be no constitutional violation for the President to remedy until the last moment of the fiscal year, because of the possibility that Congress would ratify the budget imbalance by a 60 percent vote. Id.

While this is one way to read the amendment, it is certainly not the only one. Suppose that the President is faced with clear evidence that the budget will be far out of balance and that Congress will not reach a consensus on either a 60 percent vote or on a way to balance the budget. Suppose further that the President expresses to Congress his great concern that the Constitution will be violated and the need for congressional action, but that none is forthcoming. I am by no means convinced that the language of Section 1 bars a President in these circumstances from ignoring the clear evidence that a constitutional violation is imminent and that only he can prevent it. Nothing in the amendment necessarily requires that the President wait until the last moment of the fiscal year to take action to avoid the constitutional violation (by which time such action might well be futile). Indeed, as Solicitor General Fried has suggested, section 1 may impose a duty on the President to impound funds to ensure that the Constitution is not violated. See 1994 Senate Budget Committee Hearings at 82 (testimony of Charles Fried, Professor of Law, Harvard University) ("I would think [the President's] claim to impound would be very strong. Not only his claim, but he could argue with considerable plausibility his duty to do so.")

[10] For expressions of this view, see, e.g., 1995 Senate Judiciary Committee Hearing (testimony and prepared statements of former Attorney General William Barr; Alan Morrison, Public Citizen Litigation Group; and David Strauss, Professor of Law, University of Chicago; and prepared statement of Cass Sunstein, Professor of Law, University of Chicago); 1994 Senate Hearings at 291-92 (testimony of Norman Ornstein, American Enterprise Institute); id. at 152-53, 156-57 (testimony and prepared statement of Archibald Cox, Professor of Law, Harvard University); id. at 183, 186-87 (testimony and prepared statement of Kathleen Sullivan, Professor of Law, Stanford University). Constitutional Amendments Seeking to Balance the Budget

General and federal judge Robert Bork declared in opposing a balanced budget constitutional amendment,

> The result . . . would likely be hundreds, if not thousands, of lawsuits around the country, many of them on inconsistent theories and providing inconsistent results. By the time the Supreme Court straightened the whole matter out, the budget in question would be at least four years out of date and lawsuits involving the next three fiscal years would be slowly climbing toward the Supreme Court.[11]

Another distinguished former Solicitor General, Professor Charles Fried of Harvard Law School, observed in testifying against S.J. Res. 41 last February that neither the political question doctrine nor limitations on standing would necessarily preclude litigation that would ensnare the judiciary in the thicket of budgetary politics.[12]

The Supreme Court has explained that "the political question doctrine . . . is designed to restrain the Judiciary from inappropriate interference in the business of the other branches of Government."[13] On its face, such a statement would seem to constrain the courts' review of a balanced budget amendment. The most recent decisions of the Supreme Court, however, suggest that the Court is prepared (wisely or unwisely) to resolve questions that might once have been considered "political." For example, in United States v. Munoz-Flores,[14] the Court adjudicated a claim that an assessment was unconstitutional because Congress had failed to comply with the Origination Clause, which mandates that "all Bills for

and Limit Federal Spending": Hearings Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary, 97th Cong., 2d Sess. 340-45 (1982) (testimony and prepared statement of Phillip B. Kurland, Professor of Law, University of Chicago); id. at 542-50 (testimony and prepared statement of Archibald Cox, Chairman, Common Cause).

[11] Robert H. Bork, On Constitutional Economics, Am. Ent. Inst. J. on Gov't and Soc'y (Sept.-Oct. 1983), reprinted in Proposed Balanced Budget Constitutional Amendments: Hearings Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary, 100th Cong., 1st Sess. 645, 649 (1987).

[12] 1994 Senate Hearings at 82-83, 86-87 (testimony and prepared statement of Professor Charles Fried). Although Professor Fried concluded that the specter of judicial enforcement might be minimized by careful drafting, he nonetheless opposed the proposed amendment as "profoundly undemocratic" because it would shift power to a minority of Congress. Id. at 85.

[13] United States v. Munoz-Flores, 495 U.S. 385, 394 (1990). See also Baker v. Carr, 369 U.S. 186, 217 (1962) ("Prominent on the surface of any case held to involve a political question is . . . a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government.").

[14] 495 U.S. 385 (1990).

raising Revenue shall originate in the House of Representatives." The Court rejected the argument that this issue was a nonjusticiable political question. And in 1992, the Court held that congressional selection of a method for apportionment of congressional elections is not a "political question" and is therefore subject to judicial review.[15] Indeed, some of the legislative history surrounding previous versions of the balanced budget amendment suggests that at least limited judicial review is contemplated.[16] Accordingly, we cannot be at all sure that courts would refuse to hear claims on political question grounds.

Moreover, it is possible that courts would hold that either taxpayers or Members of Congress would have standing to adjudicate various aspects of the budget process under a balanced budget amendment.[17] Even if taxpayers and Members of Congress[18] were not granted standing, the amendment could lead to litigation by recipients whose benefits, mandated by law, were curtailed by the President in reliance upon the amendment, in the event that he determines that he is compelled to enforce the amendment by impounding

[15] Department of Commerce v. Montana, 112 S.Ct. 1415 (1992).

[16] See, e.g., 140 Cong. Rec. S 1823-1834 (Feb. 24, 1994) (debate over amendment to S.J. Res. 41 limiting judicial review, indicating that Senators considered that, at least in the absence of such an amendment, judicial involvement was contemplated); 138 Cong. Rec. S 9352 (July 1, 1992) (statement of Sen. Byrd, noting that "the sponsor of the leading proposal for a balanced budget amendment has said that if the President and the Congress could not agree on a balanced budget, a district court could enforce the amendment through a tax increase"); The Balanced Budget Amendment: Hearings Before the House Comm. on the Budget, 102d Cong., 2d Sess. 461, 465-66 (1992) (statement of Rep. Stenholm, sponsor of a leading House proposal, to the effect that judicial review would be available should Congress and the President fail to meet their constitutional duties).

[17] In Flast v. Cohen, 392 U.S. 83 (1968), the Supreme Court held that a taxpayer may challenge congressional action under the Taxing and Spending Clause that violates a limitation on the exercise of that power. Although later cases have narrowed the doctrine of taxpayer standing, see, e.g., Valley Forge Christian College v. Americans United for Separation of Church & State, Inc., 454 U.S. 464 (1982), the reasoning of Flast might well permit a taxpayer to bring suit seeking to prohibit outlays in excess of receipts, or outlays in excess of the "statement of outlays" adopted prior to the fiscal year in question, since the amendment expressly limits the Congressional taxing and spending powers. Taxpayers also might challenge any increase in receipts, including the repeal of tax loopholes, where the special procedural requirements of the amendment, such as the three-fifths voting requirement of section 2, were not followed.

[18] Some have also suggested that a Member of Congress who voted against an unbalanced budget would have standing to sue to prevent its adoption. There is some case support for such a view. See, e.g., Coleman v. Miller, 307 U.S. 433, 438 (1939) (Kansas state senators had standing to protest lack of effect of votes for ratification of proposed Child Labor Amendment, which ratification had been rescinded by subsequent act of the legislature). Kennedy v. Sampson, 511 F.2d 430 (D.C. Cir. 1974) (legislators have standing to challenge constitutionality of pocket veto). But see Harrington v. Bush, 553 F.2d 190 (D.C. Cir. 1977) (legislators do not have standing to challenge executive failure to act in compliance with statute). At the least, this case law suggests that there is some possibility that a court would accord legislators standing to challenge a congressional failure to comply with the terms of the balanced budget amendment; while proponents of the amendment may well be right that according legislators standing would be unwise, they cannot, in the face of these cases, confidently assert that such a view would never be adopted by the courts.

funds."[19] In addition, a criminal defendant, prosecuted or sentenced under an omnibus crime bill that improved tax enforcement or authorized fines or forfeitures, could argue that the bill "increased revenues" within the meaning of Section 4.[20] Surely such a defendant would have standing to challenge the failure of the Congress to enact the entire bill -- not just the revenue-raising provisions -- by the constitutionally required means of a majority rollcall vote of the whole number of each House of Congress. Budget bills that include enforcement provisions could prove similarly vulnerable.[21]

All told, then, the standing and political question cases decided to date do not definitively resolve whether and to what extent courts would become involved in enforcing a balanced budget amendment. In any event, the addition of the amendment to the Constitution might alter the analysis: a litigant could argue that, even if the traditional political question and standing doctrines would in the past have given courts reason to pause before they injected themselves into budget matters, the adoption of an amendment constitutionalizing budget matters now mandates judicial involvement. I cannot be confident that a court would reject such an argument, since the proposed amendment does not specifically bar judicial enforcement of its requirements.[22]

During my testimony before the Senate Judiciary Committee on January 5, 1995, Senators Brown and Simon suggested that the states' experience with balanced budget amendments did not support the argument that there is a serious risk that courts will become involved in enforcing such an amendment at the federal level. As I responded in a letter to Senator Hatch dated January 9, 1995, it appears that there has not been a significant amount

[19] See 1994 Senate Budget Committee Hearings at 82 (testimony of Charles Fried, Professor of Law, Harvard University) (under the amendment, "a beneficiary of impounded funds surely could . . . enlist the aid of the courts"); see also 1995 Senate Hearing (testimony and prepared statement of David Strauss, Professor of Law, University of Chicago).

[20] The argument would be strengthened by the broad definition of "receipts" in Section 5, to include "all receipts of the United States except those derived from borrowing."

A similar argument could be made on the basis of section 2 of H.J. Res. 1, which requires that a "bill to increase tax revenues" must be passed by 3/5 rollcall vote of the whole number of each House of Congress. A criminal defendant might argue that a crime bill that included increased resources for prosecution of income tax provision, for example, was a "bill to increase tax revenues" within the meaning of this provisions.

[21] Indeed, the Court has at times indicated that it may have a duty to become involved in cases challenging clear constitutional violations, however "political" they might appear to be. See, e.g., United States v. Munoz-Flores, 495 U.S. 385, 391 (1990) (rejecting claim that origination clause raised a political question, because "this Court has the duty to review the constitutionality of congressional enactments"); cf. Bruneau v. Edwards, 511 So. 2d 818, 824 (La. Ct. App. 1987) (refusal of state court to stay out of question arising under balanced budget amendment on political question grounds) ("Defendants contend there exist no justiciable issues in this case because the courts should not 'step in and substitute their judgment for that of the legislative and executive branches' in the budget process. We disagree. The determination of whether the Legislature has acted within, rather than outside, its constitutional authority must rest with the judicial branch of government.")

of litigation in the states interpreting their balanced budget provisions, and I agree with Senators Brown and Simon that this is a factor that weighs against the argument that there would be an avalanche of litigation under a federal balanced budget amendment.

I am less certain than they, however, that the states' experience suggests we should be sanguine about the potential role of the courts in enforcing a federal balanced budget amendment.[23] While the states have not seen large numbers of suits, there have in fact been some cases in which courts have injected themselves into the state budget process. See, e.g., Chiles v. Children A, B, C, D, E, and F, 589 So. 2d 260 (Fla. 1991) (invalidating Governor's restructuring of appropriations for failure to comply with constitutional requirements; foster children plaintiffs had standing as taxpayers); Town of Brookline v. Governor, 553 N.E.2d 1277 (Mass. 1990) (court had power to review authority of Governor to impound funds); Bruneau v. Edwards, 517 So. 2d 818, 824 (La. Ct. App. 1987) (affirming judicial power to review legislators' challenge to constitutionality of Governor's revision of budget); Michigan Ass'n of Counties v. Dept. of Management & Budget, 345 N.W 2d 584 (Mich. 1984) (reviewing Governor's power to reduce funds sent to local governments under a balanced budget provision in the state constitution); Wein v. State, 347 N.E.2d 586 (N.Y. 1976) (taxpayers had standing to seek a declaratory judgment that the issuance of anticipation notes to New York City violated the state constitutional balanced budget requirement; the court held that the state could grant the notes so long as they would be paid by the end of the fiscal year).[24]

In addition, there are reasons to doubt that the state experience is a good predictor of what federal courts would do. I should note one factor that would suggest that there would be less federal litigation over a balanced budget amendment than the states have experienced. Many state court systems readily accept cases that federal courts would reject as

[23] Nor does the experience of the states prove that balanced budget amendments always produce balanced budgets. Even proponents of the balanced budget amendment have acknowledged that almost all of the states at times fail to balance their budgets and stand in violation of their constitutions. See, e.g., Lubecky, 55 U. Cinc. L. Rev. at 572-73. So we cannot conclude that, while Congress and the President would feel obligated to comply with the amendment, they would always succeed in doing so. Furthermore, the states, unlike the federal government, separate their capital and operating budgets. Thus, under federal accounting rules, states would be deemed to be running unbalanced budgets. In addition, many states have been accused of using gimmicks to evade the strictures of their constitutional provisions. Finally, the states are not responsible for national defense, for most future public investment planning, or for monetary policy. As a result, the strictures that a balanced budget amendment places on the states does not interfere with the ability of the nation to set responsible public policy in these crucial areas.

[24] See also Balanced Budget Amendment -- S.J. Res. 41: Hearings Before the Senate Comm. on Appropriations, 103d Cong., 2d Sess. 86 (1994) (statement of former Solicitor General Charles Fried) (opining that, while "the greatest part of [state] litigation has dealt with the validity of debt instruments issued to supplement budgets that would otherwise have been out of balance," "[t]here is no reason to believe that litigation under a federal balanced budget would be so confined"). Id. at 279, 283-87 (statement of Louis Fisher, Congressional Research Service) (analyzing state cases); David Lubecky, Comment: The Proposed Federal Balanced Budget Amendment: The Lesson from State Experience, 55 U. Cinc. L. Rev. 563 (1986).

nonjusticiable and routinely issue advisory opinions. Thus, some barriers that ought to limit federal court involvement are not present in all of the states.

Other factors, however, suggest a greater potential for litigation under a federal balanced budget amendment. Compliance with the federal balanced budget amendment likely would prove more difficult than compliance with state balanced budget amendments. Since the credit markets place strong external pressures on states to balance their budgets -- pressure that they do not have the power to place on the federal government -- state officials have less freedom to violate constitutional balanced budget requirements. In addition, the responsibilities of the federal government over national defense and macroeconomic policy will bring compliance with the amendment up against far more powerful pressures.

The nature of the state balanced budget amendments also makes compliance easier and litigation less likely. For example, almost all of the governors have impoundment authority, a line item veto, or other powerful tools to assist them in enforcing state balanced budget requirements. While I do not mean to suggest that this makes the actual decisions on what to cut easy ones, it probably does make compliance easier by shifting much of the power to decide how to balance the budget from the legislature to the unilateral judgment of an executive officer. Furthermore, it eliminates the possibility of litigation over whether the amendment creates such authority. Finally, the states may comply with their balanced budget amendments even if they do not balance their budgets, but issue bonds to finance long-term expenditures. This distinction between capital budgets and operating budgets may have served to insulate certain questions from judicial resolution.

Thus, while the experience of the states does tend to support, as Senators Brown and Simon suggest, the argument that there would be no avalanche of litigation under such an amendment, it does not prove that judicial involvement would be limited to unusual cases, or that even a restrained judicial role would be unproblematic.

In the end, there is a range of views as to the extent to which courts would involve themselves in issues arising under the balanced budget amendment. Former Solicitor General Bork believes that there "would likely be hundreds, if not thousands, of lawsuits around the country" challenging various aspects of the amendment.[25] Similarly, Professor Archibald Cox of Harvard Law School believes that "there is a substantial chance, even a strong probability, that . . . federal courts all over the country would be drawn into its interpretation and enforcement,"[26] and former Solicitor General Charles Fried has testified

[25] Robert H. Bork, On Constitutional Economics, Am. Ent. Inst. J. on Gov't and Soc'y (Sept.-Oct. 1983), reprinted in Proposed Balanced Budget Constitutional Amendments: Hearings Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary, 100th Cong., 1st Sess. 645, 649 (1987).

[26] 1994 Senate Hearings at 157 (prepared statement of Archibald Cox, Professor of Law, Harvard University).

that "the amendment would surely precipitate us into subtle and intricate legal questions, and the litigation that would ensue would be gruesome, intrusive, and not at all edifying."[27] Other commentators, such as former Attorney General William Barr, believe that the political question and standing doctrines likely would persuade courts to intervene in relatively few situations,[28] and that there will not be an "avalanche" of litigation,[29] but that, "[w]here the judicial power can properly be invoked, it will most likely be reserved to address serious and clear cut violations."[30]

Former Attorney General Barr may well be right that courts would be reluctant to get involved in most balanced budget cases -- and I agree with him that it would be proper for them to be so reluctant. However, none of the commentators, including former Attorney General Barr himself, believe that the amendment would bar courts from at least occasional intrusion into the budget process. Accordingly, whether we would face an "avalanche" of litigation or fewer cases alleging "serious and clear cut violations," there is clearly a consensus that the amendment creates the potential for the involvement of courts in issues arising under the balanced budget amendment, and that these issues are plainly inappropriate subjects for judicial resolution.[31] And, should it turn out that courts do not become involved, we would be faced with the prospect of an amendment that includes no

[27] Id. at 83 (testimony of Charles Fried, Professor of Law, Harvard University).

[28] Indeed, Attorney General Barr has stated that "I would be the last to say that the standing doctrine is an ironclad shield against judicial activism. The doctrine is malleable and it has been manipulated by the courts in the past." 1995 Senate Judiciary Committee Hearings (prepared statement of former Attorney General William Barr, at 8).

[29] 1995 Senate Hearings (prepared statement of former Attorney General William Barr, at 18).

[30] Id. at 18. See also 1994 Senate Budget Committee Hearings at 82-83 (testimony of Charles Fried) ("I cannot be confident that the courts would treat as a political question a demand by a taxpayer or by a member of Congress that further spending in the course of that year which would further unbalance the budget should be enjoined. . . . I cannot be confident that the courts would stay out of this.").

[31] Former Attorney General Barr's acknowledgment that there may be "serious and clear cut violations" that courts could remedy appears to be inconsistent with his suggestion, discussed in footnote 9, supra, that there can never be a constitutional violation of section 1 of S.J. Res. 1 until the very last moment of the fiscal year, and that the President therefore would not have impoundment authority under that proposed amendment. This construction of section 1 of the amendment would appear to deprive courts of jurisdiction as well: it means that claims would be unripe until the very end of the fiscal year, when it could finally be known whether Congress would ratify a budget imbalance, but would be moot immediately thereafter.

In rejecting the majority's conclusion in Missouri v. Jenkins, 495 U.S. 33 (1990), that a court could order a state to raise taxes, Justice Kennedy admonished, "[o]ur Federal Judiciary, by design, is not representative or responsible to the people in a political sense; it is independent. . . . It is not surprising that imposition of taxes by an authority so insulated from public communication or control can lead to deep feelings of frustration, powerlessness, and anger on the part of taxpaying citizens." 495 U.S. at 69 (Kennedy, J., concurring in part and concurring in the judgment).

enforcement mechanism, and of constitutional violations, including unconstitutional taxation, for which there will be no judicial remedy. As I will discuss below, this prospect also would be deeply troubling.

S.J. Res. 1 also fails to state whether federal courts would or would not be empowered to order tax increases in order to bring about compliance.[32] In Missouri v. Jenkins,[33] the Supreme Court held that a federal district court could mandate that a state increase taxes in order to fund a school desegregation program.[34] Once the outcome of the budgeting process has been specified in a constitutional amendment, a plaintiff with standing might successfully argue that he or she had a right to have a court issue whatever relief is necessary to remedy the constitutional violation. The failure of the amendment to preclude such powers might even be thought to suggest, in light of Jenkins, that the possibility deliberately was left open.

To summarize my concerns about the potential for judicial involvement, the failure to specify any enforcement mechanisms for the amendment could result in the transfer of power over fundamental political questions of taxing and spending to the courts. This would represent a substantial reordering of our basic constitutional structure. The placing of the "power of the purse" in the hands of the legislature -- and not in the hands of the executive or judicial branches -- was not a decision lightly made by the framers of the Constitution. James Madison wrote in the 58th Federalist that the "power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."[35] The framers explicitly rejected the notion that such untrammeled discretion over the power of the purse should be granted to either the executive[36] or to the judiciary.[37] We should be reluctant to reconsider this basic

[32] Because section 1 of H.J. Res. 1 does not require that outlays not exceed receipts, but only that actual outlays not exceed estimated outlays, a tax increase would not eliminate the constitutional violation. Accordingly, a court would not possess authority to order a tax increase under H.J. Res. 1.

[33] 495 U.S. at 50-58.

[34] The Court held, however, that the details of how to implement that mandate must be left to state authorities. Id. at 51. See also id. at 55-56 (listing additional cases in which the Supreme Court upheld orders to local governments to "levy taxes to satisfy their debt obligations" or obligations to fund desegregated school systems).

[35] The Federalist No. 58, at 359 (James Madison) (Clinton Rossiter ed., 1961).

[36] See, e.g., 3 Annals of Cong. 938-39 (remarks of Rep. James Madison) (quoting Rep. Findley as having concluded that "appropriations of money were . . . the bulwark which our Constitution had carefully and jealously established against Executive usurpations," during the course of a congressional debate over the propriety of the President's using funds appropriated to satisfy the foreign debt for another purpose; Madison appears to have been of the view that this would be acceptable provided that a careful accounting was kept and the funds repaid to the account against which they had been drawn); see also 3 Joseph Story, Commentaries on

balance of powers between the branches of government, particularly while legislative alternatives are available.

One such alternative is a statute that would grant the President the equivalent of a line item veto. President Clinton has long supported the concept of a line item veto; the Administration will work with Congress towards enactment of a statute that would confer line item veto power on the President and that would survive constitutional challenge. Toward that end, the Office of Legal Counsel has, on behalf of the Justice Department, conducted a thorough analysis of the line item veto proposals that have been introduced in this session of Congress. Those proposals are H.R. 2, S. 4, and S. 14. H.R. 2 and S. 4 would give the President the authority to rescind discretionary budget authority after an appropriations bill has been enacted. In our view, this delegation of power to the President is constitutional.[38] S. 14 would establish expedited procedures under which Congress would consider proposed presidential rescissions of discretionary authority. We believe that this proposal is constitutional as well.

Like the balanced budget amendment, the line item veto is intended to tackle the Nation's deficit problem. But unlike the balanced budget amendment, a statute modeled on the line item veto proposals that we have reviewed would not disrupt the basic structure of our government. In contrast to the balanced budget amendment, these proposals would carefully delineate the budget-cutting authority that is to be conferred on the President. As a result, the proposals would be unlikely to lead to extensive judicial involvement in the budget process. Moreover, as legislation, a line item veto statute could be revised if it turned out to have unintended consequences.

B. The Prospect of an Unenforceable Amendment

In the absence of enforcement mechanisms such as presidential impoundment of funds or judicial involvement in the budgeting process, a balanced budget amendment is unlikely to bring about a balanced budget. To have the Constitution declare that the budget shall be balanced, while providing no mechanism to make that happen, would place an empty promise

the Constitution § 1342 (1833) (noting that "[i]f [the power of the purse were not placed in congressional hands], the executive would possess an unbounded power over the public purse of the nation," and that "[t]he power to control, and direct the appropriations, constitutes a most useful and salutary check upon profusion and extravagance, as well as upon corrupt influence and public peculation.").

[37] The Federalist No. 78, at 465 (Alexander Hamilton) (Clinton Rossiter, ed., 1961) (noting that the judicial branch did not pose as great a danger to liberty as opponents feared because it "has no influence over either the sword or the purse; no direction either of the strength or the wealth of society").

[38] H.R. 2 would also authorize the President to cancel targeted tax benefits after the enactment of a revenue bill. We believe that, with minor changes that would preserve its purpose, the targeted tax benefit provision of H.R. 2 would be constitutional as well. See Memorandum for the Attorney General from Walter Dellinger, Assistant Attorney General, Office of Legal Counsel, re: Line Item Veto Act, January 4, 1995.

in the fundamental charter of our government and lead to countless constitutional violations. Moreover, to have a provision of the Constitution routinely violated would inevitably make all other provisions of the Constitution seem far less inviolable. As Alexander Hamilton noted,

> Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they know that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breast of rulers toward the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.[39]

Some have suggested that even if the amendment failed to eliminate the deficit, it would nonetheless have the salutary effect of creating pressure to reduce the deficit. While this might be true, the effect would come at considerable cost. Even supposing that the amendment brought about a reduction in the size of the deficit, the remaining excess of expenditures over receipts would constitute a continuing multi-billion-dollar violation of the Constitution, every day that the budget is not in balance. For how long would we as a people continue to make difficult decisions to comply with the First Amendment or with the Due Process or Takings Clauses of the Fifth Amendment if we had routinely failed, for lack of an enforcement mechanism, to come within a billion dollars of complying with the most recent amendment to our Constitution?

III. Conclusion

It would be wonderful if we could simply declare by constitutional amendment that from this day forward the air would be clean, the streets free of drugs, and the budget forever in balance. But merely saying those things in the Constitution does not make them happen. As countries around the world have discovered, placing a statement of principle in a constitution does not mean that such a principle, however laudatory, will be obeyed. Many constitutions "guarantee" environmental purity or freedom from poverty; the only effect when such promises fail is that the constitution is not taken seriously as positive law, the

[39] The Federalist No. 25, at 167 (Alexander Hamilton) (Clinton Rossiter ed., 1961). For further expression of this concern, as it relates to proposed balanced budget amendments quite similar to this one, see, e.g., Peter W. Rodino, The Proposed Balanced Budget/Tax Limitation Constitutional Amendment: No Balance, No Limits, 10 Hastings Const. L.Q. 785, 800 (1983); 1987 House Hearings, supra, at 614-15 (Letter of William Van Alstyne, Professor of Law, Duke University, to Mr. Warren Grimes, Counsel, House Committee on the Judiciary); id. 606-13 (Letter of Jonathan Varat, Professor of Law, U.C.L.A., to the Hon. Peter Rodino, Chairman of the House Comm. on the Judiciary); and 1979-80 House Hearings, supra, at 22 (statement of Paul A. Samuelson, Nobel-prize-winning economist) ("If the adopted amendment provides escape valves so easy to invoke that the harm of the amendment can be avoided, the amendment degenerates into little more than a pious resolution, a rhetorical appendage to clutter up our magnificent historical Constitution. . . . There is no substitute for disciplined and informed choice by a democratic people of their basic economic policies.").

kind of law that is invocable in court by litigants. The framers of the American Constitution, on the contrary, understood that provisions of the Constitution must be enforceable if the rule of law is to be respected. We should hesitate long before placing an unenforceable promise in the fundamental document that binds our nation together.

Prepared Statement of Olivia Coggin Eudaly

Dear Mr. Chairman and Members of the Committee,

Thank you for the privilege of appearing before this committee concerning a matter which is of vital significance to the future of this country. The priority consideration which you have given to this legislative matter bespeaks your collective wisdom and bodes well for the future of all of us who are citizens of this great land; therefore, with optimism and a sense of personal encouragement, I present to you in a few brief minutes the results of some twenty-five to thirty years of concern for and involvement in this important piece of legislation.

Pardon me if my presentation is not laden with governmental jargon or double speak, but in reality time has run out for approaching a balanced budget in that fashion. Pardon me if my presentation is too simplistic, too logical, too clear or too direct, but in reality when presented with the choice of saving a country which includes my five children and my future grandchildren, a balanced budget is in fact all too simple and all too clear.

In addition, it is not necessary for me to take valuable your time to restate the amount of our national debt or the burden which it imposes upon every American, nor is it necessary to spend time laying blame or looking back.

We are where we are.

Now, the question is simply,

"How do we get out of the mess we are in?"

My presentation to you comes in the form of a symbolic story with which each of us in this room can identify.

If I were to come here today to this hearing and tell you that my role in our family back home in Texas is that of a homemaker/housewife.

If I were to say that I am not the breadwinner, so to speak, that actually my husband and I have an agreement:

I have agreed to provide certain vital services within our little "country" we call family and he has agreed to provide the funds for those services - not in the form of a tax exactly but in a similarly agreed upon fashion, i.e. percentage of his income on regular dates, etc.

If I were to tell you that with these funds I am to oversee the

Health and Human Services

Education

Transportation

Commerce,

Labor,

Interior (decorating), Housing and shall we say Urban Development, of our five children, our little "family citizens,"

And if I were to say to you, sirs, these services are vital and expensive and necessary and essential to the well being of our citizen group.

Then you would most certainly agree and would have no problem understanding the arrangement under which we operate within our little country in order to care for our very important citizens.

However, if I added that we have been married since 1968 and that I have not balanced by budget in all that time and

that I have continued to request more and more money from him for these services and that, in fact, I have borrowed so much money that the money he now gives me to perform these vital functions for the good of our citizenry group goes almost entirely toward satisfying the debts which I have incurred, that I have spent his hard earned money on items that he and I have never agreed upon, that I have in fact squandered the money that he has worked so hard to provide, that he has tried to impose restrictions on my spending, but to no avail because

"I have the checkbook!"

You would most certainly ask me how it is that this patient man has been willing to stay with me for so long,

why he hasn't done something to stop this atrocious mishandling of the money which he has laboriously worked to earn in order to provide for our family citizenry, and

why he continues to increase the funds available to me.

You would ask, you would, in fact, demand, that I go home immediately and balance by budget by

1. lowering my spending
2. stopping by borrowing and
3. most of all, not asking that poor man for another penny, for he's been very patient, indeed.

You would probably impose restrictions on me to prevent my conning, coaxing, or bamboozling that man out of another increase of any kind except for dire emergencies that could threaten the very foundation of our family.

You would tell me in no uncertain terms that the problem is not that my husband has provided too little but that I, the wife, have spent too much. This scenario would remind you of another in which you yourself and you would feel uncomfortable responding to my problem with such a clear, concise solution but

in your hearts you know it's right.

(just as you know that a method to prevent increased taxation is the solution to curbing spending at the Congressional level.)

You would tell me to curb my spending and not to expect another increase in funds except in the case of a dire emergency, and in such an emergency you **might** allow for a one time temporary increase of funds based on a tough policy such as the supermajority vote requirement for tax increases, which is the best solution before Congress.

But otherwise, you would limit my available funds to current levels, reduce my spending, and put an end to my borrowing. You would have no problem understanding the necessity of such a move because you are people of good sense.

You know an emergency when you see one, and you recognize the need for drastic action.

You are the elected, the chosen, leaders of this land, and you can see a problem and handle it with integrity and forthrightness, for you are the Congress of the greatest nation in the world.

So with pathos I say that...you, the Congress of these United States are that overtaxed husband. We have provided the funds that requested, cajoled, and demanded and now it is time for you to use that money wisely by

BALANCING THE BUDGET WITHOUT DELAY

by lowering your spending,

stopping your borrowing, and

asking for no new taxes except as allowed by a super majority,

Please sirs, like that housewife who has taken advantage of her hard working husband for too long, open your eyes to the absolute necessity of

AT LEAST...

AT LEAST...

BALANCING THE BUDGET

and then moving toward giving that poor bread winner some relief.

He's definitely earned it.

TRUE BLUE PATRIOTS

I am honored to be invited to speak today on behalf of the people who have united as True Blue Patriots to encourage government to stop increasing taxes, introduce spending cuts now and focus on reducing government waste. We are what you would probably call mainstream, middle class. We are the people who go to work, raise our children, watch little league games, and pay our taxes usually without much investigation of what happened to those dollars.

But, in the last few years, increasing numbers of us have had a gut level intuition that our nation was in trouble. As a result of that discomfort, my husband and I made a commitment to become better informed or drop our concern and complaining.

Our first step was to listen to President Clinton's Budget presentation on February 17, 1993. During his speech, all I could hear was a desire to create more and more federal government programs--all of which cost money--and to teach our children through these programs--from immunizations through college loans and jobs thereafter--to expect the federal government to meet their needs. I was offended to hear acceptance of any fiscal policy as the definition of "patriotism," and I determined to gather information from the CBO when the President suggested that we do so.

Gathering information about Congressional spending, sending it to everyone on my Christmas card list, and gathering the courage to speak publicly to taxpayer groups, and on radio has been one of the finest adventures an American could be given. I learned that my fellow taxpayers were also deeply disturbed that federal, state, local taxes and federal regulation were consuming half of the nation's income. I have met countless businessmen such as Mike McMurray who after years of saving bought a radio station just to find that he spent hours every week dealing with government regulation. Even though I try hard not to be inflammatory in what I say, I cannot deny that countries throughout Eastern Europe have failed as a result of such government control and that I grew up believing in America as the land of the free--free to be a responsible individual, part of a responsible family. We have now heard from 34 states and thousands of Americans, most of whom will say when they call the first time, "I've never done anything like this before, but it has gone too far. What can I do?" We are the people writing you

postcards, some signed a Patriot from Cincinnati, or Phoenix; the people calling you and writing letters. We are the people who worked hard placing yard signs, literature in every mail box and making phone calls on behalf of Frank Cremeans and Steve Chabot as well as others.

You might wonder why we would assist in campaigns outside our own district. You see, the budget process of the 103rd Congress taught us some things that cannot and should not ever be repeated in this great, free land

During the 1993 budget process, members elected by us were not allowed to participate in the planning of how Congress would spend our hard earned dollars. I urge you to make permanent rules which enforce open committee meetings. We, outside the beltway, were shocked to learn that rules could be waived so that members could be forced to vote on legislation written by partisan committees behind closed doors, and the representatives we had elected could not have read or studied adequately. We learned that members could vote for the rules and against the bill and play both sides of the fence.

I learned about baseline budgeting--something
spend more than you earn--might like to but just can't live that way and tell our neighbors and their children to pay the bill.
Learned that government employees more people than manufacturing,
that government has spent ove $1 50 for each dollar of revenue for years, that compared to the growth of our income. Congressional growth has been phenomenal
I urge you to review all government regulations with a mandate to reduction of every department's interference by 10% annually from now until the budget is balanced.

Stenholm - no super majority

I urge you today to pass a Balanced Budget Amendment issues containing a super majority by adopting the Barton amendment requiring a 3/5 super majority In a brief story, I can explain the reasons for my belief that any legislation which takes away from us what we have earned in the form of a tax increase should be done by a clear majority--not a manipulated majority!

During the 1993 budget debate, as a group of grassroots activists totally untrained in influencing legislation, we generated mammoth protest against the tax increase. Yet, when my family came to Washington to watch the final days of the debate, we witnessed unforgettable events We were seated in the gallery the afternoon and evening of the House vote My son and I learned that "there will be no demonstrations in the gallery" and so listened with pleasure as member after member discussed the protest in which we had participated, the postcards, the letters, the phone calls, all stating that we the American people did not want another tax increase--half of our income was enough! When the voting began, we watched the count and saw that, at one point, we might win! Then, we were quite puzzled as we watched the numbers change and even votes on the wall of members' name changed from red to green. You know what happened, the budget just barely passed. Imagine my despair and my friends' shock and disappointment when I told them that members of the House had actually badgered Representatives - elected and paid by taxpayers - into changing their votes to support a bill they knew their constituents opposed emphatically

The next afternoon and evening, my son, then 17 and also fascinated with freedom and its potential--sat with me in the Senate gallery and watched the debate--once again, members described the outcry we the taxpayers had generated against the tax increase, talked about the fact that it would increase the nation's debt by more than one trillion dollars Many of you know what was said As the evening progressed, we chose to stay but noticed with some dismay that one of our friends who had a pass was forced to leave so that others could be seated We realized that the gallery and all the steps were filling and we didn't know why The voting began and eventually, Vice President Gore entered the room When his vote was cast, the tax increase was passed and the gallery broke into applause and cheering--this time, the cheering wasn't stopped until it had died way down At that point, the Vice President grinned and said, "there'll be no demonstrations in the gallery " The gallery had been stacked just as the deal had been stacked, and the American people got to foot the bill

The tragedy was that the increase was not representative of the majority of Americans in a clear-cut, straightforward manner We the owners--not the customers--were taxed without representation. Government represented itself -- not the people it is called serve The increase was accomplished by badgering Representatives to change their votes, by making promises of spending cut~~reductions~~ later, by calls to "save the Presidency" rather than concerns to save our nation Americans recognize that the Contract with America called for a vote on a Balanced Budget Amendment but their calls to us indicate a

a determination to see a balanced budget become an actuality--one which is not subject to political maneuverings. Our nation has a wonderful economy which has sustained repeated faliures to deal with the deficit through real spending cuts. We have watched as the tax increases promised to us as deficit reduction invariably produced greater deficits. We have read the 1993 budget and know that the short term reduction is more than offset by the coming increases in the national debt.

We, the voters, were not irrationally angry on November 8. We are, however, determined to see fiscal and legislative accountability in the halls of Congress. You represent the finest people on earth. Americans aren't nearly so apathetic as has been presented. Nor are they uninformed. I hope that you will secure and read the report of the Budget Hearing held in Columbus Saturday. When a 73 year old man is willing to cut his Social Security Income by 10%, how can you in Congress refuse to do as much?

Your best interests are served in protecting yourselves from the lone vote victory of 1993 and in being able to tell you constituents that you support their right to spend their own earnings and only a clear and super majority can ever again take another of American families' hard earned dollars to satisfy the appetites of those who favor large, centralized bureaucracies and thereby must be said to oppose the American individual and family.

Congress can [illegible] Passing, implementing the BTU with a clear-not manipulated majority vote [illegible] will do much to [illegible] establish the 104th Congress as truly the a body of civil [illegible] committed to restoring the best interests of the American people.

True Blue Patriots, P. O. Box 62404, Cincinnati, OH 45262-0404

Phone (513) 777-8120 Fax (513) 777-8140

Prepared Statement of Jake Hansen

Balanced Budget Amendment: Imperative to Social Security

Mr. Chairman, this is not at new issue to The Seniors Coalition. Since our inception we have fought for a Balanced Budget Amendment. We have had experts on Social Security and expert economist look at the issue, as well as hearing from thousands of our members. Their conclusion: give us a Balanced Budget Amendment.

During the elections and in recent debate, we have heard from many politicians that a Balanced Budget Amendment will destroy Social Security. However, the question is not "Will a Balanced Budget Amendment destroy Social Security," but rather "Can Social Security survive without a Balanced Budget Amendment?"

As you know, up until 1983, the Social Security system ran on a pay-as-you-go basis. This is, the amount of money going into the Trust Funds from payroll deductions was basically equal to the amount of money being paid to the beneficiaries of the day.

In the late seventies, the economy was a disaster. Inflation was up, leading to higher cost of living payment than had been anticipated. Unemployment was up, meaning that less money was being paid into the system than had been anticipated. The result: Social Security was headed for bankruptcy at break-neck speed.

In 1983, a bi-partisan effort saved Social Security by changing the benefit structure and raising Social Security payroll taxes. This effort created a new -- and potentially worse -- problem: a rising fund balance in the Social Security Trust Finds. For the past ten years, more money has been pouring into the Trust Funds that is needed to meet today's obligations.

This balance has been "borrowed" by the federal government. Today, the federal government owes the Trust Funds about $430 billion. By the year 2018 according to the Social Security Board of Trustees, that figure will be a shade over three trillion dollars. At that time, the entire federal debt will be -- who knows, eight, ten, twelve trillion dollars?

This point is, how will the government ever pay back the Trust Funds? They could:

- turn on the printing presses and monetize the debt, so that a Social Security check would buy a loaf of bread.

- borrow the money -- hurting both the economy and the Federal Budget. make massive cuts in benefits
- raise taxes, and thus, destroy the economy for everyone.
- or simply renege on the debt.

Mr. Chairman, The Seniors Coalition doesn't find any of these alternatives acceptable.

The Chairman of our advisory board, Robert J. Myers (often referred to as the father of Social Security) wrote of his support of a Balanced Budget Amendment last year and said:

"In my opinion, the most serious threat to Social Security is the federal government's fiscal irresponsibility. If we continue to run federal defects year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust finds to pay for our current prolificacy, or we we'll print money, dishonestly inflation our way out of indebtedness. Both cases would devastate the real value of the Social Security Trust Funds."

The bottom line, is that if we want to protect the integrity of the Social Security the only way is through a Balanced Budget Amendment.

With that said, the question becomes will just any only Balanced Budget Amendment do? The answer is, some are better that others, and some are absolutely not acceptable.

First, some people are suggesting that Social Security should be exempted. That should be something that an organization like ours would leap at. The fact is, we are concerned that such an Amendment would end up destroying Social Security as more and more government programs would be moved to Social Security to circumvent the Balanced Budget Amendment. We believe this would destroy Social Security, and will not support such an Amendment.

Our first choice would be a Balanced Budget Amendment that controls taxes as well as spending -- such as the Amendment that has been presented by Congressman Barton. We support tax limitation and would like to see this Amendment voted on. We would urge every Member of Congress to vote for this Amendment.

If, this Amendment does not pass, then we willingly support a Balanced Budget Amendment such as the one offered by Senators Hatch and Craig. While I am concerned about taxes, I believe that last

year's elections showed us that we, the people, de have the ultimate power. And, I believe that had we been forced to pay for all the government we were being given, we would have made massive changes much sooner.

Mr. Chairman, we believe that what is most important is that America be given a serious Balanced Budget Amendment as soon as possible. We will work with you and your colleagues in every way possible to make that happen. Thank you.

SPEAK OUT
AMERICA



Testimony To The Joint Economic Committee

Witness:	Mr. Gary Stewart Ms. Karen Mazzarella Co-founders Speak Out America
Hearing Topic:	Balanced Budget Amendment
Date:	Monday January 23, 1995

When we were asked to come to Washington to testify before you today, we were in a dilemma on how to make this presentation. For Karen Mazzarella and myself are not only here as co-founders of Speak Out America, but for the thousands of our members that are average, middle class American Taxpayers that play by the rules, work hard to provide a better life for themselves and their families, and pay their taxes. We are frustrated by our elected officials. For decades we have elected officials for the sole purpose of changing the way government does business. Once in office they soon are overwhelmed by the political process, it becomes business as usual and they fail to deliver what they promised to the American public. Out of desperation, our members, many of which who have never been politically active before, have been forced to take time out of their busy lives to involve themselves in the political process. We have spent many hours reviewing proposed bills, studying the Constitution, watching CSPAN, attending meetings, and working hard to reach the American public with our message and get our people elected. The mass media may have reduced politics to tabloid sensationalism, but in grassroots America largely through groups like ourselves, millions of Americans are educating themselves and examining almost every aspect of government. As a result there has been a raging debate of the issues. Unfortunately our role in this debate is usually harassing your staffs through the mail and on the telephone. So we welcome this rare opportunity to share our views with you today in the hope that you will continue what we worked so hard to achieve in the November elections, that is for Congress to examine itself and hopefully reach our conclusion that you must redefine and reduce the role of the federal government and begin with making The Balanced Budget Amendment and The Contract With America a reality.

In terms of today's discussion, we believe strongly that the budget deficit problems are a result of bloated government excesses, not tax shortages. Out of control government spending and continued years of deficit spending has created a tax burden that deters business growth, is destroying middle-class jobs, income and jeopardizes our children's fiscal futures In the Clinton administration's 1994 budget plan, there is a discussion of the deficit and its impact on future generations

P.O. Box 831
Highland, MI 48357

Phone (810) 887-4919
Fax (810) 887-4919

I am a baby boomer And being a boomer The Office of Management and Budget reports to me that baby boomers will go down in history as the first generation that on average will not attain the same standard of living as their parents Generation X, today's twenty year olds, will earn net of taxes 15 6% less and Generation Y, the tots of today, look forward to paying 82 cents of every dollar they earn in taxes mostly to pay the interest on our debt. Taxing the unborn is the not the type of taxation without representation that our founding fathers had in mind and we do not take amending the Constitution of United States lightly, but based on the recent history of undisciplined government spending of one generation's money by another, a strong Balanced Budget Amendment is not only appropriate, but is necessary. Every State has some statutory or constitutional requirement to balance it's budget resulting in 49 of 50 States that operate in balance or surplus, strong evidence that these statutory restrictions work.

We do however have grave concerns over the type of Balance Budget Amendment that must be passed. Historically as in 1990 and 1992, Congress sought to reduce the deficit by raising taxes, not by cutting spending. It is much easier for most politicians to cave in to powerful interest groups that block spending cuts rather than defend the least served special interest group, The American Taxpayer. It is imperative that any Balanced Budget Amendment must include some tax limitation provision similar to Representative Joe Barton's three-fifths supermajority vote to raise taxes Balanced Budget Amendment proposals such as Representative Stenholm's that have an automatic tax increase provision are unacceptable. The purpose of The Balanced Budget Amendment is to cut spending and create an appropriation process where each Congressman and Senator is personally accountable when they don't. A Balanced Budget Amendment with automatic tax increases will have exactly the opposite result. We fear that a Balanced Budget Amendment could be used as an excuse to raise taxes simply by continuing to increase spending, triggering automatic tax increases, no appropriation, no vote, no accountability to voters, no budget restrictions or deterrents We need a new bridge, build it. Taxes got raised. Sorry it wasn't us, there's that darned Balanced Budget Amendment that automatically kicked in the tax increase

It is also important that any balanced budget amendment accompany legislation to prohibit unfunded federal mandates According to the National Conference of State Legislatures, The 103rd Congress passed 206 federal mandates that will cost just the State of Michigan an estimated 400 million dollars of State taxes State taxes forced to pay federal programs. Among the Secret Health Care Task Force documents recently made public, we found a 65 page discussion of State's Rights In this discussion, Sallyanne Payton and Walter Zellmen attempt to answer Ira Magaziner's question, can we impose the Clinton Health Care Plan on State Governments?

> "The short answer is no State governments are independent, although subordinate sovereignties, not subdivisions of the federal government Although the federal government may regulate many of their functions directly it may not require them to exercise their own governmental powers in a manner dictated by federal law The States may be encouraged, bribed or threatened into entering into joint federal-state programs of various sorts, from unemployment insurance to Medicaid, but they may not be commanded directly to use their own governmental apparatus in the service of federal policy There is a modest jurisprudence of the Tenth Amendment that seems to have settled on this proposition "

Speak Out America has joined many other groups, to spearhead a 10th Amendment State Sovereignty Resolution ordering the federal government to cease and desist unfunded and unconstitutional mandates. We are successful now in seven States. Initiatives in all remaining 43 States are now progressing. We cannot reduce the size of the federal government simply by transferring federal programs over to the States as mandated obligations.

Speak Out America would like to see a strong Balanced Budget Amendment including the three-fifths supermajority tax limitation provision come to a vote only after legislation is passed prohibiting unfunded federal mandates. If as an Amendment, it does not receive the required majority vote to pass, then so be it, and let those that vote against it take the consequences. Passage of a watered down version just for the sake of claiming passage of a Balanced Budget Amendment would have reverse consequences from what is originally intended. A watered down Balanced Budget Amendment does not make for a balanced budget. We would rather see no Balanced Budget Amendment passed and let Congress go about the business of balancing the budget through the normal legislative process. A simple majority is all that is needed.

We are not political lobbyists. We are concerned citizens that drove 9 hours to give you this 5 minute presentation in the hope that we all make the hard decisions and take action to balance the budget, preserve our country and stop this fiscal insanity. I leave you with this quotation from author Fred Holden as to why.

If we do, our children will never forget us.
If we don't they will never forgive us.
If we lose it, if America fails, our children will ask,
What were you doing when freedom died?
What was so darned important in your busyness of business?
We ask, what will your answer be?

Thank You

Prepared Statement of Fred Wertheimer

I am pleased to be here today to testify on behalf of Common Cause in opposition to the constitutional amendment to require a balanced budget.

The constitutional amendment to require a balanced budget is a grave disservice to the country and the Constitution.

The balanced budget constitutional amendment is a fundamentally anti-democratic measure that represents an extraordinary shift of power in our political system from majority to minority rule. The amendment is a fool's gold approach to dealing with the nation's federal budget and economic problems.

The balanced budget amendment represents the illusion, not the reality, of political will. And based on a recent statement by House Majority Leader Richard Armey (R-TX), the amendment is a giant rip-off of the American people, since its passage depends on keeping the American people in the dark as to what the actual consequences would be of adopting the amendment. On January 6, 1995, Representative Armey said, "We have the serious business of passing a balanced budget amendment and I am profoundly convinced that putting the details out would make that virtually impossible."

Poll results show that when specific cuts are presented to the American people, their views on a balanced budget amendment change dramatically. For example, a recent *Wall Street Journal/NBC News* poll found that 68 percent of the respondents favored a balanced budget amendment to the Constitution. But when asked if they would "favor or oppose a balanced budget amendment to the Constitution if it required a 20% cut in spending on entitlement programs such as Medicare, Medicaid, and veterans benefits", 61 percent of those polled said they *opposed* the amendment.

The United States Constitution is not the place for resolving our nation's economic and fiscal policies. Nor is the United States Supreme Court, which inevitably will be drawn into these policy matters if the amendment is adopted. As Archibald Cox, former Solicitor General of the United States and Common Cause Chairman Emeritus, has said, the amendment, "is an act of constitutional irresponsibility" which "trivializes our basic charter and thus threatens to substitute cynicism for the honor and respect of the people, upon which the vitality of the Constitution depends."

The vote on the constitutional amendment for a balanced budget will be one of the most important decisions Members of Congress will make

because the adoption of this amendment would do fundamental damage to the core principles upon which our nation was founded.

As James Madison made clear in the *Federalist Papers*, majority rule is a cornerstone of our democracy and our system of representative government. The balanced budget amendment would make minority rule a way of life in our national government. As such, it represents a profound and frontal attack on our founders' beliefs.

The proposal to establish in the Constitution a three-fifths vote to increase taxes or eliminate tax loopholes is a blatant power grab to ensure that a minority of Members can block the will of the majority when it comes to tax policy. The escape clause in the balanced budget amendment to allow unbalanced budgets to be enacted by a three-fifths vote locks minority rule into the daily activities of the United States Congress. The escape clause ensures that we will continue to see unbalanced budgets, voted by three-fifths of the Congress, and provides a minority of Members with the power to block any program, policy, proposal or idea that is part of the federal budget. This would give new meaning to the concept of "unintended consequences."

As *The Washington Post* said in a January 8 editorial,

The proposed amendment is misnamed. It wouldn't require a balanced budget. Rather, it would make it harder to pass an unbalanced one by requiring supermajorities of three-fifths votes in both houses to do so. What it would enshrine in the Constitution is not a balanced budget but the principle of minority rule. Forty percent plus one of either house could annually hold the entire government hostage.

A number of the arguments made for the balanced budget amendment are simply fallacious and everyone knows it.

The argument that citizens have to balance their checkbooks ignores the debt citizens incur in buying homes or cars or paying for their children's educations.

The argument that states have to balance their budgets under state constitutions ignores the fact that states generally balance their operating budgets, not their whole budgets, and that many states balance their budgets with borrowed funds or with substantial funds provided by the federal government.

And as Rudolph Penner, former director of the Congressional Budget Office, has noted, "While 49 (states) have constitutional provisions or legislation requiring a balanced budget, many routinely resort to outrageous accounting gimmicks to 'balance' budgets, and many have created 'off-budget' agencies."

The balanced budget amendment would fundamentally damage our Constitution, one of the greatest documents ever written and the foundation for our system of government. We strongly urge you to vote against any constitutional amendment to require a balanced budget.

PREPARED STATEMENT OF JAMES WEILL

Impact of the balanced budget amendment on children in

THE UNITED STATES

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In the United States overall...

- 1,992,550 babies, preschoolers, and pregnant women would lose infant formula and other WIC nutrition supplements.
- 4,258,750 children would lose **food stamps**.
- 7,564,550 children would lose free or subsidized School Lunch Program lunches.
- 6,604,450 children would lose **Medicaid** health coverage.
- 5,133,150 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 2,861,550 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 231,100 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 209,050 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 222,150 children would lose **Head Start** early childhood services.
- 629,250 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 1,920,900 children would lose remedial education through **Title I**.

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Impact of the balanced budget amendment on children in

ALABAMA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Alabama alone...

- 36,700 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 86,350 children would lose **food stamps.**
- 165,350 children would lose free or subsidized **School Lunch Program** lunches.
- 108,350 children would lose **Medicaid** health coverage.
- 87,400 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 30,050 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 7,150 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 4,000 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 4,350 children would lose **Head Start** early childhood services.
- 8,900 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 40,750 children would lose remedial education through **Title I.**

Impact of the balanced budget amendment on children in

ALASKA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Alaska alone...

- 4,750 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 7,200 children would lose **food stamps**.
- 13,550 children would lose free or subsidized **School Lunch Program** lunches.
- 14,950 children would lose **Medicaid** health coverage.
- 13,700 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 6,900 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 200 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 500 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 350 children would lose **Head Start** early childhood services.
- 2,350 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 2,350 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

ARIZONA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Arizona alone...

- 35,150 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 80,550 children would lose **food stamps**.
- 112,950 children would lose free or subsidized **School Lunch Program** lunches.
- 128,600 children would lose **Medicaid** health coverage.
- 79,100 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 40,200 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,700 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 3,600 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 2,950 children would lose **Head Start** early childhood services.
- 10,500 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 30,450 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

ARKANSAS

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Arkansas alone...

- 26,400 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 42,400 children would lose **food stamps**.
- 93,700 children would lose free or subsidized **School Lunch Program** lunches.
- 59,350 children would lose **Medicaid** health coverage.
- 35,250 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 15,550 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 5,000 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 1,700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 2,700 children would lose **Head Start** early childhood services.
- 5,200 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 26,250 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

CALIFORNIA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In California alone...

- 273,600 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 579,550 children would lose **food stamps**.
- 681,850 children would lose free or subsidized **School Lunch Program** lunches.
- 1,092,300 children would lose **Medicaid** health coverage.
- 550,150 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 511,350 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 17,400 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 19,150 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 21,250 children would lose **Head Start** early childhood services.
- 68,900 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 415,000 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

CONNECTICUT

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Connecticut alone...

- 19,650 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 35,200 children would lose **food stamps**.
- 67,700 children would lose free or subsidized **School Lunch Program** lunches.
- 57,150 children would lose **Medicaid** health coverage.
- 54,400 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 32,450 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 1,300 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 2,450 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,700 children would lose **Head Start** early childhood services.
- 6,100 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 16,200 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

COLORADO

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Colorado alone...

- 20,700 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 44,250 children would lose **food stamps.**
- 88,000 children would lose free or subsidized **School Lunch Program** lunches.
- 62,200 children would lose **Medicaid** health coverage.
- 51,600 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 24,800 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,350 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 2,250 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 2,450 children would lose **Head Start** early childhood services.
- 12,000 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 12,100 children would lose remedial education through **Title I.**

Impact of the balanced budget amendment on children in

WASHINGTON,D.C.

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In the District of Columbia alone...

- 5,450 babies, preschoolers, and pregnant women would lose infant formula and other WIC nutrition supplements.
- 14,450 children would lose **food stamps**.
- 14,100 children would lose free or subsidized **School Lunch Program** lunches.
- 22,950 children would lose **Medicaid** health coverage.
- 23,400 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 13,750 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 600 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 600 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 850 children would lose **Head Start** early childhood services.
- 1,500 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 4,400 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

DELAWARE

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Delaware alone...

- 4,950 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 9,350 children would lose **food stamps.**
- 19,050 children would lose free or subsidized **School Lunch Program** lunches.
- 14,400 children would lose **Medicaid** health coverage.
- 14,050 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 5,600 children would lose welfare benefits **(Aid to Families with Dependent Children).**
- 500 blind and disabled children would lose Supplemental Security Income **(SSI).**
- 700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 450 children would lose **Head Start** early childhood services.
- 3,300 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 3,100 children would lose remedial education through **Title I.**

Impact of the balanced budget amendment on children in

GEORGIA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Georgia alone...

- 61,850 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 125,250 children would lose **food stamps**.
- 288,150 children would lose free or subsidized **School Lunch Program** lunches.
- 183,450 children would lose **Medicaid** health coverage.
- 143,450 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 82,900 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 6,800 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 7,950 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 5,850 children would lose **Head Start** early childhood services.
- 13,100 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 50,450 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

FLORIDA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Florida alone...

- 89,600 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 236,750 children would lose **food stamps**.
- 352,900 children would lose free or subsidized **School Lunch Program** lunches.
- 394,750 children would lose **Medicaid** health coverage.
- 264,300 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 143,150 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 12,500 **blind and disabled children** would lose Supplemental Security Income (**SSI**).
- 9,050 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 8,250 children would lose **Head Start** early childhood services.
- 19,000 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 62,400 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

IDAHO

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Idaho alone...

- 9,500 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 12,650 children would lose **food stamps**.
- 42,600 children would lose free or subsidized **School Lunch Program** lunches.
- 21,300 children would lose **Medicaid** health coverage.
- 15,150 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 4,250 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 950 **blind and disabled** children would lose Supplemental Security Income (**SSI**).
- 850 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 550 children would lose **Head Start** early childhood services.
- 1,900 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 7,400 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

HAWAII

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Hawaii alone...

- 7,450 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 14,900 children would lose **food stamps.**
- 41,800 children would lose free or subsidized **School Lunch Program** lunches.
- 21,350 children would lose **Medicaid** health coverage.
- 19,850 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 11,150 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 200 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 700 children would lose **Head Start** early childhood services.
- 5,950 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 4,500 children would lose remedial education through **Title I.**

Impact of the balanced budget amendment on children in

INDIANA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Indiana alone...

- 40,200 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 76,950 children would lose **food stamps**.
- 178,900 children would lose free or subsidized **School Lunch Program** lunches.
- 107,200 children would lose **Medicaid** health coverage.
- 227,200 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 42,100 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 5,000 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 4,300 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 3,500 children would lose **Head Start** early childhood services.
- 11,550 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 29,000 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

ILLINOIS

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Illinois alone...

- 71,150 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 183,650 children would lose **food stamps**.
- 278,800 children would lose free or subsidized **School Lunch Program** lunches.
- 302,550 children would lose **Medicaid** health coverage.
- 211,600 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 141,750 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 12,350 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 7,800 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 9,150 children would lose **Head Start** early childhood services.
- 20,200 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 54,300 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

IOWA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Iowa alone...

- 18,450 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 29,050 children would lose **food stamps**.
- 114,400 children would lose free or subsidized **School Lunch Program** lunches.
- 50,800 children would lose **Medicaid** health coverage.
- 46,750 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 19,850 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,050 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 1,700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,800 children would lose **Head Start** early childhood services.
- 7,900 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 11,000 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

KANSAS

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Kansas alone...

- 17,550 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 27,900 children would lose **food stamps**.
- 92,000 children would lose free or subsidized **School Lunch Program** lunches.
- 47,400 children would lose **Medicaid** health coverage.
- 35,850 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 17,750 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 1,950 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 2,000 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,750 children would lose **Head Start** early childhood services.
- 17,300 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 10,500 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

KENTUCKY

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Kentucky alone...

- 34,400 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 72,150 children would lose **food stamps**.
- 151,950 children would lose free or subsidized **School Lunch Program** lunches.
- 103,500 children would lose **Medicaid** health coverage.
- 82,150 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 43,400 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 5,200 **blind and** disabled children would lose Supplemental Security Income (**SSI**).
- 3,750 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 4,250 children would lose **Head Start** early childhood services.
- 9,900 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 33,650 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

LOUISIANA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Louisiana alone...

- 35,400 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 123,150 children would lose **food stamps**.
- 201,200 children would lose free or subsidized **School Lunch Program** lunches.
- 136,250 children would lose **Medicaid** health coverage.
- 86,550 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 56,550 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 10,800 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 4,600 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 5,800 children would lose **Head Start** early childhood services.
- 17,100 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 34,550 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MAINE

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Maine alone...

- 8,200 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 18,450 children would lose **food stamps**.
- 31,550 children would lose free or subsidized **School Lunch Program** lunches.
- 28,750 children would lose **Medicaid** health coverage.
- 20,150 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 12,600 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 650 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,050 children would lose **Head Start** early childhood services.
- 3,800 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 8,600 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MARYLAND

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Maryland alone...

- 25,400 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 59,250 children would lose **food stamps**.
- 108,000 children would lose free or subsidized **School Lunch Program** lunches.
- 96,950 children would lose **Medicaid** health coverage.
- 93,950 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 44,900 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,700 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 3,900 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 2,550 children would lose **Head Start** early childhood services.
- 9,350 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 20,850 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MASSACHUSETTS

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Massachusetts alone...

- 34,000 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 68,700 children would lose **food stamps**.
- 134,000 children would lose free or subsidized **School Lunch Program** lunches.
- 118,150 children would lose **Medicaid** health coverage.
- 64,400 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 62,600 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 3,900 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 5,750 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 3,250 children would lose **Head Start** early childhood services.
- 13,750 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 28,300 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MICHIGAN

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Michigan alone...

- 62,700 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 153,900 children would lose **food stamps**.
- 222,550 children would lose free or subsidized **School Lunch Program** lunches.
- 239,100 children would lose **Medicaid** health coverage.
- 372,500 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 134,950 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 9,300 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 4,950 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 9,200 children would lose **Head Start** early childhood services.
- 19,700 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 52,950 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MINNESOTA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Minnesota alone...

- 29,150 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 51,550 children would lose **food stamps**.
- 154,600 children would lose free or subsidized **School Lunch Program** lunches.
- 93,250 children would lose **Medicaid** health coverage.
- 59,650 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 37,750 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,450 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 3,900 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 2,550 children would lose **Head Start** early childhood services.
- 28,000 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 24,600 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MISSISSIPPI

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Mississippi alone...

- 30,950 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 82,000 children would lose **food stamps**.
- 122,400 children would lose free or subsidized **School Lunch Program** lunches.
- 97,450 children would lose **Medicaid** health coverage.
- 75,800 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 37,250 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 6,650 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 2,600 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 7,250 children would lose **Head Start** early childhood services.
- 9,550 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 45,350 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MISSOURI

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Missouri alone...

- 36,600 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 87,350 children would lose **food stamps**.
- 166,550 children would lose free or subsidized **School Lunch Program** lunches.
- 119,300 children would lose **Medicaid** health coverage.
- 98,500 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 51,400 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 5,100 **blind and disabled** children would lose Supplemental Security Income (**SSI**).
- 4,200 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 4,200 children would lose **Head Start** early childhood services.
- 11,700 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 32,100 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

MONTANA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Montana alone...

- 5,800 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 10,100 children would lose **food stamps**.
- 26,000 children would lose free or subsidized **School Lunch Program** lunches.
- 16,750 children would lose **Medicaid** health coverage.
- 8,750 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 6,750 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 550 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 700 children would lose **Head Start** early childhood services.
- 3,600 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 4,900 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NEBRASKA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Nebraska alone...

- 10,450 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 18,350 children would lose **food stamps**.
- 61,150 children would lose free or subsidized **School Lunch Program** lunches.
- 31,100 children would lose **Medicaid** health coverage.
- 36,450 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 9,800 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 1,000 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 1,800 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,100 children would lose **Head Start** early childhood services.
- 11,000 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 9,700 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NEVADA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Nevada alone...

- 8,150 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 16,400 children would lose **food stamps**.
- 27,950 children would lose free or subsidized **School Lunch Program** lunches.
- 20,150 children would lose **Medicaid** health coverage.
- 21,650 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 7,350 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 600 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 550 children would lose **Head Start** early childhood services.
- 1,300 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 4,050 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NEW HAMPSHIRE

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In New Hampshire alone...

- 5,900 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 8,750 children would lose **food stamps**.
- 26,400 children would lose free or subsidized **School Lunch Program** lunches.
- 13,800 children would lose **Medicaid** health coverage.
- 12,750 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 5,650 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 400 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 650 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 350 children would lose **Head Start** early childhood services.
- 1,750 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 4,150 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NEW JERSEY

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In New Jersey alone...

- 42,200 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 80,300 children would lose **food stamps**.
- 152,000 children would lose free or subsidized **School Lunch Program** lunches.
- 138,600 children would lose **Medicaid** health coverage.
- 175,350 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 71,500 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 5,350 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 3,400 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 3,850 children would lose **Head Start** early childhood services.
- 10,600 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 54,200 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NEW MEXICO

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In New Mexico alone...

- 15,700 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 39,500 children would lose **food stamps**.
- 52,200 children would lose free or subsidized **School Lunch Program** lunches.
- 47,650 children would lose **Medicaid** health coverage.
- 20,100 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 18,550 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 1,600 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 1,900 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,900 children would lose **Head Start** early childhood services.
- 12,450 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 16,200 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NEW YORK

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In New York alone...

- 134,200 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 289,450 children would lose **food stamps**.
- 487,650 children would lose free or subsidized **School Lunch Program** lunches.
- 500,400 children would lose **Medicaid** health coverage.
- 343,800 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 234,650 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 19,900 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 12,100 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 11,700 children would lose **Head Start** early childhood services.
- 40,550 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 138,000 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NORTH CAROLINA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In North Carolina alone...

- 53,350 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 97,050 children would lose **food stamps**.
- 225,150 children would lose free or subsidized **School Lunch Program** lunches.
- 165,050 children would lose **Medicaid** health coverage.
- 122,600 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 67,050 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 6,700 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 9,750 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 4,750 children would lose **Head Start** early childhood services.
- 18,650 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 35,850 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

NORTH DAKOTA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In North Dakota alone...

- 5,400 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 7,100 children would lose **food stamps**.
- 26,700 children would lose free or subsidized **School Lunch Program** lunches.
- 10,850 children would lose **Medicaid** health coverage.
- 10,600 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 3,600 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 300 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 550 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 500 children would lose **Head Start** early childhood services.
- 5,750 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 3,550 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

OHIO

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Ohio alone...

- 75,800 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 183,350 children would lose **food stamps**.
- 291,800 children would lose free or subsidized **School Lunch Program** lunches.
- 284,400 children would lose **Medicaid** health coverage.
- 287,150 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 141,900 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 11,500 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 10,150 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 10,200 children would lose **Head Start** early childhood services.
- 20,950 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 56,300 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

OKLAHOMA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Oklahoma alone...

- 26,800 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 53,900 children would lose **food stamps**.
- 109,750 children would lose free or subsidized **School Lunch Program** lunches.
- 75,950 children would lose **Medicaid** health coverage.
- 32,650 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 28,300 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,900 **blind and disabled** children would lose Supplemental Security Income (**SSI**).
- 4,000 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 3,300 children would lose **Head Start** early childhood services.
- 11,800 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 18,000 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

OREGON

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Oregon alone...

- 23,100 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 41,200 children would lose **food stamps**.
- 73,850 children would lose free or subsidized **School Lunch Program** lunches.
- 63,650 children would lose **Medicaid** health coverage.
- 66,100 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 23,300 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 1,700 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 2,650 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,400 children would lose **Head Start** early childhood services.
- 9,150 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 15,400 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

PENNSYLVANIA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Pennsylvania alone...

- 77,500 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 166,900 children would lose **food stamps.**
- 292,600 children would lose free or subsidized **School Lunch Program** lunches.
- 264,400 children would lose **Medicaid** health coverage.
- 265,350 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 122,400 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 10,200 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 8,500 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 7,650 children would lose **Head Start** early childhood services.
- 20,700 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 78,750 children would lose remedial education through **Title I.**

Impact of the balanced budget amendment on children in

RHODE ISLAND

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Rhode Island alone...

- 6,250 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 14,700 children would lose **food stamps**.
- 17,350 children would lose free or subsidized **School Lunch Program** lunches.
- 24,100 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 12,150 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 650 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 950 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 750 children would lose **Head Start** early childhood services.
- 2,150 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 4,550 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

SOUTH CAROLINA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In South Carolina alone...

- 36,900 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 64,150 children would lose **food stamps**.
- 135,250 children would lose free or subsidized **School Lunch Program** lunches.
- 86,000 children would lose **Medicaid** health coverage.
- 59,800 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 31,700 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 4,200 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 2,700 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 3,050 children would lose **Head Start** early childhood services.
- 5,750 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 20,500 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

SOUTH DAKOTA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In South Dakota alone...

- 7,000 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 9,450 children would lose **food stamps**.
- 31,900 children would lose free or subsidized **School Lunch Program** lunches.
- 14,200 children would lose **Medicaid** health coverage.
- 7,800 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 4,250 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 700 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 600 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 600 children would lose **Head Start** early childhood services.
- 3,050 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 4,500 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

TENNESSEE

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Tennessee alone...

- 39,500 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 109,250 children would lose **food stamps**.
- 177,950 children would lose free or subsidized **School Lunch Program** lunches.
- 164,400 children would lose **Medicaid** health coverage.
- 155,000 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 65,050 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 5,700 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 6,200 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 4,350 children would lose **Head Start** early childhood services.
- 9,600 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 38,400 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

TEXAS

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Texas alone...

- 183,300 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 426,500 children would lose **food stamps**.
- 640,950 children would lose free or subsidized **School Lunch Program** lunches.
- 510,050 children would lose **Medicaid** health coverage.
- 226,100 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 163,650 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 14,250 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 15,950 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 15,400 children would lose **Head Start** early childhood services.
- 43,450 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 175,400 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

UTAH

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Utah alone...

- 16,800 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 22,300 children would lose **food stamps**.
- 73,900 children would lose free or subsidized **School Lunch Program** lunches.
- 36,200 children would lose **Medicaid** health coverage.
- 24,200 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 10,450 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 1,100 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 2,400 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,200 children would lose **Head Start** early childhood services.
- 11,200 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 10,700 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

VERMONT

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Vermont alone...

- 4,850 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 7,600 children would lose **food stamps**.
- 13,900 children would lose free or subsidized **School Lunch Program** lunches.
- 13,750 children would lose **Medicaid** health coverage.
- 6,500 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 5,250 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 350 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 550 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 400 children would lose **Head Start** early childhood services.
- 2,500 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 3,650 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

VIRGINIA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Virginia alone...

- 38,800 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 78,350 children would lose **food stamps**.
- 175,100 children would lose free or subsidized **School Lunch Program** lunches.
- 115,750 children would lose **Medicaid** health coverage.
- 97,550 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 40,050 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 4,850 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 4,000 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 3,300 children would lose **Head Start** early childhood services.
- 10,000 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 23,100 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

WASHINGTON

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Washington alone...

- 30,650 babies, preschoolers, and pregnant women would lose infant formula and other WIC nutrition supplements.
- 68,950 children would lose **food stamps.**
- 125,450 children would lose free or subsidized **School Lunch Program** lunches.
- 122,700 children would lose **Medicaid** health coverage.
- 92,450 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 55,500 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,900 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 5,800 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 2,500 children would lose **Head Start** early childhood services.
- 14,050 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 19,050 children would lose remedial education through **Title I.**

Impact of the balanced budget amendment on children in

WEST VIRGINIA

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In West Virginia alone...

- 16,000 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 62,350 children would lose **food stamps**.
- 59,850 children would lose free or subsidized **School Lunch Program** lunches.
- 70,300 children would lose **Medicaid** health coverage.
- 23,900 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 22,200 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 2,150 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 1,600 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 1,900 children would lose **Head Start** early childhood services.
- 3,050 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 10,350 children would lose remedial education through **Title I**.

Impact of the balanced budget amendment on children in

WYOMING

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Wyoming alone...

- 3,600 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 5,550 children would lose **food stamps.**
- 17,150 children would lose free or subsidized **School Lunch Program** lunches.
- 10,000 children would lose **Medicaid** health coverage.
- 8,400 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 3,650 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 300 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 500 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 400 children would lose **Head Start** early childhood services.
- 2,300 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 1,650 children would lose remedial education through **Title I.**

Impact of the balanced budget amendment on children in

WISCONSIN

The Contract with America calls for balancing the federal budget by Fiscal Year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other federal expenditures by 30 percent. Children's programs could suffer even more if cuts in such programs as Medicare or veterans' services were limited, as is likely.

Costs might be cut in several ways: by dropping groups of children from programs and putting them on waiting lists; by reducing benefits or the quality of services (for example, by ending Medicaid coverage for some health treatments or cutting AFDC grants by 30 percent); or by making families pick up more costs through co-payments and cost sharing. The following list estimates how many children would be affected in FY 2002 if costs were cut solely by reducing program enrollments.

In Wisconsin alone...

- 32,150 babies, preschoolers, and pregnant women would lose infant formula and other **WIC** nutrition supplements.
- 54,400 children would lose **food stamps**.
- 145,800 children would lose free or subsidized **School Lunch Program** lunches.
- 106,600 children would lose **Medicaid** health coverage.
- 119,750 cases now served by the state **child support** agency would lose help to establish paternity or collect child support.
- 41,100 children would lose welfare benefits (**Aid to Families with Dependent Children**).
- 5,550 blind and disabled children would lose Supplemental Security Income (**SSI**).
- 3,600 or more children would lose the **federal child care subsidies** that enable parents to work or get education and training.
- 3,600 children would lose **Head Start** early childhood services.
- 13,900 children in child care and Head Start would lose **Child and Adult Care Food Program** meals.
- 20,900 children would lose remedial education through **Title I**.

Technical Notes

To balance the budget (assuming defense spending and Social Security are are not cut, taxes are not raised, and tax cuts proposed by the Contract with America are adopted), the Center on Budget and Policy Priorities estimates that all other federal spending would need to be cut by more than 30 percent in FY 2002 (*The New Fiscal Agenda: What Will It Mean and How Will It Be Accomplished?*, revised January 5, 1995). CDF's analysis assumes that all non-defense and Social Security programs are cut proportionally, though it is likely that certain programs (such as Medicare) will not be cut as deeply, and others will be cut more deeply. Another likely scenario would be a slightly lower percentage reduction for entitlement programs (such as Medicaid), with much deeper cuts in non-defense discretionary programs like the Child Care and Development Block Grant.

To project the impact of such deep cuts on children, CDF multiplied the number of children presently enrolled in various programs by 30 percent (because reliable figures on the number of children in federally funded child care do not exist, a special approach was used for child care programs). This assumes that the cuts would affect each program equally, and would only affect the size -- not the quality -- of the program. While it is possible that funding for any given program could be cut without triggering such reductions in children served, this could happen only at the cost of serious reductions in the quality or level of assistance provided to the children who remain. All data are the most recent available; results are rounded to the nearest 50 children.

In all programs with state match provisions (except child care), CDF assumed that states would not "overmatch" available federal dollars, so loss of federal funds also would mean loss of state matching dollars.

Nutrition programs. CDF used unpublished July 1994 data for WIC, FY 1993 data for food stamps, and FY 1994 data for the School Lunch Program and the Child and Adult Care Food Program, all from the U.S. Department of Agriculture's Food and Consumer Service.

Medicaid. CDF used the number of children younger than 21 enrolled in Medicaid for any time during FY 1993, from the Medicaid Bureau of the U.S. Department of Health and Human Services (HHS), *Medicaid Statistics: Program and Financial Statistics, Fiscal Year 1993*, table 31.

Child support enforcement. CDF used FY 1993 data on child support enforcement "cases" from HHS's Office of Child Support Enforcement (*Child Support Enforcement: Eighteenth Annual Report to Congress*, table 32).

AFDC. CDF used FY 1993 data on the average monthly number of children receiving Aid to Families with Dependent Children, from HHS, Administration for Children and Families, "Overview of the AFDC Program, Fiscal Year 1993."

SSI. Data for child recipients of Supplemental Security Income in December 1993 are from HHS's Social Security Administration. The figures leave out children who are not blind or disabled themselves but who live with an adult recipient and depend on the adult's SSI income.

Child care programs. CDF calculated how many dollars of federal child care funds each state would lose under a 30 percent cut in four child care programs: the Child Care and Development Block Grant, the At-Risk Child Care Program, IV-A child care, and Transitional Child Care. For the At-Risk program, CDF used the funding amount available to the state. CDF divided this funding loss by the estimated cost of a child care slot (CDF assumed that half of federal expenditures purchase slots at the full-time year-round cost and half at the part-time year-round cost. CDF calculated these two cost figures, in turn, as a weighted average of parents' reported child care expenditures in the National Child Care Survey of 1990).

Head Start. Data on Head Start slots in FY 1994 are from the Head Start Bureau of HHS.

Title I. Data for school year 1992-1993 are from the U.S. Department of Education.

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